



# TOWN OF WESTFIELD TOWN COUNCIL REGULAR MEETING

**Tuesday, June 9, 2020  
8:00 PM**

## **PROPOSED AGENDA**

This agenda is prepared for the information of the public. It is the order of the meeting; however, if changes in order, deletions or additions are made, they will be noted at the time.

1. Roll Call
2. Invocation
3. Salute to the flag
4. Appointments

### ***Human Relations Advisory Commission***

<i>Alexis Jemal</i>	<i>December 31, 2022</i>
<i>Cheryl Swift</i>	<i>December 31, 2022</i>
<i>Rodney Ross</i>	<i>December 31, 2022</i>
<i>Varsha Lyer</i>	<i>December 31, 2021</i>
<i>Claudio Ramirez</i>	<i>December 31, 2021</i>
<i>Michele Coyne</i>	<i>December 31, 2021</i>
<i>Jenny Tannenbaum</i>	<i>December 31, 2020</i>
<i>Rami Sarabi</i>	<i>December 31, 2020</i>
<i>Gary Timm</i>	<i>December 31, 2020</i>

### ***Alternates***

<i>Laurie Clancy</i>	<i>December 31, 2021</i>
<i>Debbie Goddard</i>	<i>December 31, 2020</i>

### ***Liaisons***

*Rabbi Ethan Prosnit, Ministerium*  
*Chief Christopher Battiloro, Westfield Police Department*  
*Chief Anthony Tiller, Westfield Fire Department*  
*Dr. Margaret Dolan, Westfield School Superintendent*  
*Lee Schaefer, Westfield Public Arts Commission*  
*Ron Holmes, Lifelong Westfield/Senior Advisory Council*  
*Anna Qiang, Westfield High School Liaison*

5. Presentations
6. Advertised Hearings

GENERAL ORDINANCE NO. 2171

AN ORDINANCE PROVIDING FOR THE IMPLEMENTATION IN THE TOWN OF WESTFIELD OF THE "FIVE YEAR TAX EXEMPTION AND ABATEMENT LAW" PURSUANT TO N.J.S.A. 40A: 21-1

7. Approval of Minutes from Town Council Regular Meeting held May 26, 2020
8. Petitions and Communications
9. Open discussion by citizens
10. Bills and Claims in the amount of \$2,609,904.82
11. Reports of Standing Committees

Finance Policy Committee

1. Resolution authorizing the Chief Financial Officer to draw warrant to refund street opening Cash Bond
2. Resolution authorizing the Chief Financial Officer to refund Recreation Department fees
3. Resolution authorizing the Chief Financial Officer to draw warrant for dog licenses for May 2020
4. Resolution authorizing the Chief Financial Officer to draw warrant for unused parking permit fee
5. Resolution authorizing the Chief Financial Officer to draw warrant for overpaid taxes in 2020
6. Resolution authorizing the Chief Financial Officer to draw warrants for the year 2019 pursuant to Tax Court of NJ
7. Resolution to award contract for website redesign services
8. Resolution authorizing the purchase of lighting in connection with Westfield 300
9. Resolution establishing payment schedule for Board of Education tax payments

Public Safety, Transportation and Parking Committee

Code Review & Town Property Committee

1. Resolution supporting a sustainable land use pledge
2. Resolution to approve outdoor seating as per Executive Order No. 150 and authorizing Town Clerk to issue licenses for same.
3. GENERAL ORDINANCE NO. 2172  
AN ORDINANCE AMENDING CHAPTER TWELVE OF THE TOWN CODE OF THE TOWN OF WESTFIELD, NEW JERSEY, IN ORDER TO REGULATE THE HOURS DURING WHICH LOUD MECHANICAL EQUIPMENT MAY BE USED
4. GENERAL ORDINANCE NO. 2173  
AN ORDINANCE AMENDING THE CODE OF THE TOWN OF WESTFIELD, NEW JERSEY, AS IT RELATES TO THE STORAGE AND DELIVERY OF PREMANUFACTURED (MODULAR) HOMES AND BUILDING COMPONENTS
5. GENERAL ORDINANCE NO. 2174  
AN ORDINANCE ESTABLISHING THE WESTFIELD MENTAL HEALTH COUNCIL FOR THE TOWN OF WESTFIELD
6. GENERAL ORDINANCE NO. 2175

AN ORDINANCE ESTABLISHING THE WESTFIELD SENIOR ADVISORY COUNCIL  
ALSO KNOWN AS “LIFELONG WESTFIELD” FOR THE TOWN OF WESTFIELD

7. GENERAL ORDINANCE NO. 2176  
ORDINANCE ESTABLISHING GOVERNMENT ENERGY AGGREGATION PROGRAM
8. GENERAL ORDINANCE NO. 2177  
AN ORDINANCE AMENDING THE LAND USE ORDINANCE TO ESTABLISH AND  
REGULATE BOARDING HOUSES
9. GENERAL ORDINANCE NO. 2178  
AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWN OF  
WESTFIELD, NEW JERSEY, RELATING TO SOLAR ENERGY SYSTEMS
10. GENERAL ORDINANCE NO. 2179  
AN ORDINANCE ESTABLISHING A HISTORIC PRESERVATION COMMISSION AND  
PROVIDING FOR THE DESIGNATION AND PRESERVATION OF HISTORIC DISTRICTS  
AND HISTORIC LANDMARKS IN THE TOWN OF WESTFIELD
11. GENERAL ORDINANCE NO. 2180  
AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF  
WESTFIELD IN REGARD TO WALL-MOUNTED SIGNS FOR CORNER LOTS
12. GENERAL ORDINANCE NO. 2181  
AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF  
WESTFIELD IN REGARD TO THE DEFINITION OF ACCESSORY BUILDING OR  
STRUCTURE
13. GENERAL ORDINANCE NO. 2182  
AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF  
WESTFIELD IN REGARD TO DIMENSIONS OF GARAGE PARKING SPACES

Public Works Committee

12. Reports of Department Heads

Adjournment

**TOWN OF WESTFIELD**  
**WESTFIELD, NEW JERSEY**

**GENERAL ORDINANCE NO. 2171**

**AN ORDINANCE PROVIDING FOR THE  
IMPLEMENTATION IN THE TOWN OF WESTFIELD OF  
THE “FIVE YEAR TAX EXEMPTION AND ABATEMENT  
LAW” PURSUANT TO *N.J.S.A. 40A: 21-1***

**WHEREAS**, pursuant to the Five-Year Exemption and Abatement Law, *N.J.S.A. 40A:21-1, et seq.* (the “**Law**”), a municipality having within its corporate limits areas in need of rehabilitation or redevelopment, may, by ordinance, provide for the exemption and/or abatement of real property taxes, to encourage and provide incentives for the construction and rehabilitation of dwellings, multiple dwellings, mixed use structures and industrial and commercial structures; and

**WHEREAS**, on May 12, 2020, the Mayor and Council of the Town of Westfield (the “**Governing Body**”) adopted Resolution No. 108-2020 (the “**Resolution**”) designating the Town’s downtown area, as more particularly depicted and described in Exhibit A to the Resolution, as an area in need of rehabilitation pursuant to *N.J.S.A. 40A:12A-1, et seq.* (the “**Rehabilitation Area**”); and

**WHEREAS**, the Governing Body desires to provide for real estate tax incentives for dwellings, multiple dwellings, mixed use structures and industrial and commercial structures within the boundaries of the Rehabilitation Area to encourage appropriate and sound development therein; and

**WHEREAS**, the Law provides for the exemption of assessments on improvements for five years following completion of a project as defined in the Law and the exemption or abatement of property taxes for new construction for a five-year period following completion of the project as defined in the Law.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Town of Westfield as follows:

**1. Short Title.**

This article shall be known and may be cited as the “Five-Year Exemption and Abatement Ordinance.”

**2. Applicability.**

This ordinance shall be applicable to all properties located within an area in need of rehabilitation or area in need of redevelopment delineated by the Mayor and Council of the Town of Westfield pursuant to *N.J.S.A. 40A:12A-1, et seq.*

### 3. **Findings and Purpose.**

The Governing Body finds that *N.J.S.A. 40A:12A-21, et seq.*, authorized by Article 8, § 1, Paragraph 6, of the New Jersey Constitution, permitting municipalities to grant five-year periods of exemptions or abatements, or both, from taxation in areas in need of rehabilitation have proven to be effective in promoting the construction and rehabilitation of residential, commercial and industrial structures in such areas. It is the purpose of this article to permit the Town of Westfield the greatest flexibility possible within the constitutional and statutory limitations to address problems of deterioration and decay through the employment of such exemptions and abatements within areas in need of rehabilitation.

### 4. **Definitions.**

The definitions of terms set forth in *N.J.S.A. 40A:21-3* are hereby incorporated into this ordinance as if fully set forth at length herein.

### 5. **Dwellings.**

a. Exemptions for Improvements to Dwellings. This article provides for the exemption from taxation of improvements to dwellings. In determining the value of real property, the Town shall regard the first \$25,000 in the Assessor's full and true value of improvements for each dwelling unit primarily and directly affected by the improvement in any dwelling more than 20 years old as not increasing the value of the property for a period of up to five years, notwithstanding that the value of the property to which the improvements are made is increased thereby.

b. Abatements for Improvements to Dwellings. Any property which receives an exemption pursuant to Section 5(a) of this ordinance shall be provided an abatement of the assessed value of property receiving the exemption as it existed immediately prior to the improvement. In such instance, the abatement shall be granted with respect to that property for a total of five years and the abatement shall be calculated at 30% of the annual amount of the exemption granted herein.

c. Exemptions for Construction of Dwellings or Conversion to Dwelling Use. This article provides for the exemption of a portion of the assessed valuation of construction of new dwellings and of conversions of other buildings and structures, including unutilized public buildings, to dwelling use. In determining the value of real property, the Town shall regard 30% of the Assessor's full and true value of the dwelling constructed, or conversion alterations made, as not increasing the value of the property for five years, notwithstanding that the value of the property upon which the construction or conversion occurs is increased thereby.

d. Abatements for Construction of Dwellings or Conversion to Dwelling Use. Any property which receives an exemption pursuant to Section 5(c) of this article shall be provided an abatement of the assessed value of property receiving the exemption as it

existed immediately prior to the construction or conversion alteration. In such instance, the abatement shall be granted with respect to that property for a total of five years and the abatement shall be calculated at 30% of the total cost of the construction or conversion alteration, however in no event shall the total amount of the abatement granted to any single property exceed the total cost of the construction or conversion alteration.

6. **Multiple Dwellings.**

a. Exemptions for Improvements to Multiple Dwellings or Conversion to Multiple Dwelling Use. This article provides for the exemption from taxation of improvements to multiple dwellings and of conversions of other buildings and structures, including unutilized public buildings, to multiple-dwelling use. In determining the value of the real property, the Town shall regard up to the Assessor's full and true value of the improvements or conversion alterations as not increasing the value of the property for a period of up to five years, notwithstanding that the value of the property to which the improvements or conversion alterations are made is increased thereby. During the exemption period, the assessment on the property shall not be less than the assessment thereon existing immediately prior to the improvements or conversion alterations, with the exemption of the abatement granted pursuant to Section 5(b), unless there is damage to the multiple dwelling through action of the elements sufficient to warrant a reduction.

b. Abatements for Improvements to Multiple Dwellings or Conversion to Multiple Dwelling Use. Any property which receives an exemption pursuant to Section 5(a) of this ordinance shall be provided an abatement of the assessed value of property receiving the exemption as it existed immediately prior to the improvement or conversion alteration. In such instance, the abatement shall be granted with respect to that property for a total of five years and the abatement shall be calculated at 30% of the total cost of the improvement or conversion alteration, however in no event shall the total amount of the abatement granted to any single property exceed the total cost of the construction or conversion alteration.

c. Exemptions and Abatements for Construction of Multiple Dwellings. This article provides for the exemption of a portion of the assessed valuation of construction of new multiple dwellings and abatement of the assessed value of the property receiving the exemption as it existed immediately prior to the construction. The terms of an exemption or abatement provided for under this Section 6(c) shall be set forth in a tax agreement in accordance with the provisions of *N.J.S.A. 40A:21-8* through *40A:21-12*, and Sections 8, 9, and 10 of this ordinance.

7. **Commercial or Industrial Structures.**

a. Exemptions for Improvements to Commercial or Industrial Structures. This article provides for the exemption from taxation of improvements to all commercial or industrial structures. In determining the value of real property, the Town shall regard up to the Assessor's full and true value of the improvements as not increasing the value of the property for a period of up to five years, notwithstanding that the value of the property to

which the improvements are made is increased thereby. During the exemption period, the assessment on the property shall not be less than the assessment thereon existing immediately prior to the improvements unless there is damage to the structure through action of the elements sufficient to warrant a reduction.

b. Exemptions for Construction of Commercial or Industrial Structures. This ordinance provides for the exemption of a portion of the assessed valuation of construction of new commercial or industrial structures on a project-by-project basis approved by resolution of the Mayor and Council. The terms of an exemption or abatement provided for under this Section 7(b) shall be set forth in a tax agreement in accordance with the provisions of *N.J.S.A.* 40A:21-8 through 40A:21-12, and Sections 8, 9, and 10 of this ordinance.

8. **Applications for Tax Exemption and Abatement.**

a. Applications. In accordance with *N.J.S.A.* 40A:21-16, no exemption or abatement shall be granted pursuant to this ordinance except upon written application therefor filed with and approved by the assessor. Every application shall be on a form prescribed by the Director of the Division of Taxation in the State Department of the Treasury and provided for the use of claimants by the municipal Assessor, and shall be filed with the Assessor within 30 days, including Saturdays and Sundays, following the completion of the improvement, conversion, alteration or construction. Every application for exemption, or exemption and abatement, shall be approved and allowed by the assessor to the degree that the application is consistent with the provisions of the adopting ordinance or the tax agreement, provided that the improvement, conversion alteration or construction for which the application is made qualifies as an improvement, a conversion alteration or construction pursuant to the provisions of *N.J.S.A.* 40A:21-1, *et seq.*, and the tax agreement, if required. The granting of an exemption, or exemption and abatement, shall relate back to, and take effect as of, the date of completion of the project, or portion or stage of the project for which the exemption, or exemption and abatement, is granted, and shall continue for five annual periods from that date. The grant of the exemption, or exemption and abatement, or tax agreement shall be recorded and made a permanent part of the official tax records of the taxing district, which record shall contain a notice of the termination date thereof.

b. New Construction of Commercial or Industrial Structures or Multiple Dwellings. In addition to the application set forth in subsection (a), applicants for tax exemption and abatement for new construction of commercial or industrial structures or multiple dwellings shall provide the municipal governing body with an application for a tax agreement setting forth:

- i. a general description of a project for which exemption and abatement is sought;
- ii. a legal description of all real estate necessary for the project;

- iii. plans, drawings and other documents as may be required by the governing body to demonstrate the structure and design of the project;
- iv. description of the number, classes and type of employees to be employed at the project site within two years of completion of the project;
- v. statement of the reasons for seeking tax exemption and abatement on the project, and a description of the benefits to be realized by the applicant if a tax agreement is granted;
- vi. estimates of the cost of completing such project;
- vii. statement showing (1) the real property taxes currently being assessed at the project site; (2) estimated tax payments that would be made annually by the applicant on the project during the period of the agreement; and (3) estimated tax payments that would be made by the applicant on the project during the first full year following the termination of the tax agreement;
- viii. if the project is a commercial or industrial structure, a description of any lease agreements between the applicant and proposed users of the project, and a history and description of the users' businesses;
- ix. if the project is a multiple dwelling, a description of the number and types of dwelling units to be provided, a description of the common elements or general common elements, and a statement of the proposed initial rentals or sales prices of the dwelling units according to type and of any rental lease or resale restrictions to apply to the dwellings' units respecting low- or moderate-income housing; and
- x. such other pertinent information as the governing body may require.

## 9. **Tax Agreements.**

Upon adoption of a resolution or ordinance authorizing a tax agreement for a particular project under this ordinance, the Mayor shall enter into a written agreement with the applicant for the exemption of local real property taxes. Exemptions or abatements requiring a tax agreement may be approved on a project-by-project basis in the sole discretion of the Mayor, or his/her designee, with the advice of the Assessor and with the consent of Council acting by resolution or ordinance. The agreement shall provide for the applicant to pay to the Town in lieu of full property tax payments an amount annually to be computed by one, but in no case a combination, of the following formulas:

- a. Cost basis: the agreement may provide for the applicant to pay to the Town in lieu of full property tax payments an amount equal to 2% of the cost of the project. For the purposes of the agreement, "the cost of the project" means



only the cost or fair market value of direct labor and all materials used in the construction, expansion or rehabilitation of all buildings, structures and facilities at the project site, including the costs, if any, of land acquisition and land preparation, provision of access roads, utilities, drainage facilities and parking facilities, together with architectural, engineering, legal, surveying, testing and contractors' fees associated with the project; which the applicant shall cause to be certified and verified to the governing body by an independent and qualified architect, following the completion of the project.

b. Gross revenue basis: the agreement may provide for the applicant to pay to the Town in lieu of full property tax payments an amount annually equal to 15% of the annual gross revenues from the project. For the purposes of the agreement, "annual gross revenues" means the total annual gross rental and other income payable to the owner of the project from the project. If in any leasing, any real estate taxes or assessments on property included in the project, any premiums for fire or other insurance on or concerning property included in the project or any operating or maintenance expenses ordinarily paid by the landlord are to be paid by the tenant, then those payments shall be computed and deemed to be part of the rent and shall be included in the annual gross revenue. The tax agreement shall establish the method of computing the revenues and may establish a method of arbitration by which either the landlord or tenant may dispute the amount of payments so included in the annual gross revenue.

c. Tax phase-in basis: the agreement may provide for the applicant to pay to the Town in lieu of full property tax payments an amount equal to a percentage of taxes otherwise due, according to the following schedule:

- i. in the first full tax year after completion, no payment in lieu of taxes otherwise due;
- ii. in the second tax year, an amount not less than 20% of taxes otherwise due;
- iii. in the third tax year, an amount not less than 40% of taxes otherwise due;
- iv. in the fourth tax year, an amount not less than 60% of taxes otherwise due; and
- v. in the fifth tax year, an amount not less than 80% of taxes otherwise due.

#### **10. Provisions Regarding Tax Agreements.**

a. All tax agreements entered into by municipalities pursuant to *N.J.S.A.* 40A:21-9 through 40A:21-12 shall be in effect for no more than the five full tax years next following the date of completion of the project.

b. All projects subject to tax agreement as provided herein shall be subject to all applicable federal, state and local laws and regulations on pollution control, worker safety, discrimination in employment, housing provision, zoning, planning and building code requirements.

c. That percentage which the payment in lieu of taxes for a property bears to the property tax which would have been paid had an exemption not been granted for the property under the agreement shall be applied to the valuation of the property to determine the reduced valuation of the property to be included in the valuation of the Town for determining equalization for county tax apportionment and school aid during the term of the tax agreements covering the properties, and at the termination of an agreement for a property, the reduced valuation procedure required under this section shall no longer apply.

d. Within 30 days after the execution of a tax agreement, the Town Clerk shall forward a copy of the agreement to the Director of the Division of Local Government Services in the Department of Community Affairs.

**11. Disqualification of Property Owner; Termination of Tax Agreement.**

a. If during any tax year prior to the termination of the tax agreement the property owner ceases to operate or disposes of the property or fails to meet the conditions for qualifying, then the tax which would have otherwise been payable for each tax year shall become due and payable from the property owner as if no exemption had been granted. The governing body of the Town shall notify the property owner and Tax Collector forthwith, and the Tax Collector shall within 15 days thereof notify the owner of the property of the amount of taxes due. However, with respect to the disposal of the property, where it is determined that the new owner of the property will continue to use the property pursuant to the conditions which qualified the property, no tax shall be due, the exemption shall continue, and the agreement shall remain in effect.

b. At the termination of a tax agreement, a project shall be subject to all applicable real property taxes as provided by state law and regulation and local ordinance; but nothing herein shall prohibit a project, at the termination of an agreement, from qualifying for and receiving the full benefits of any other tax preferences provided by law.

**12. Assessed value of property under exemption.**

The Assessor shall determine, on October 1 of the year following the date of the completion of an improvement, conversion or construction, the true taxable value thereof. Except for projects subject to tax agreement, pursuant to *N.J.S.A. 40A:21-9 through 40A:21-12*, the amount of tax to be paid for the first full tax year following completion shall be based on the assessed valuation of the property for the previous year plus any portion of the assessed valuation of the improvement, conversion or construction not allowed an exemption pursuant to this ordinance, also pro-rated.

Subject to the provisions of this ordinance, the property shall continue to be treated in the appropriate manner for each of up to the five full tax years subsequent to the original determination by the Assessor.

**13. Subsequent Exemptions and Abatements.**

This ordinance provides that an additional improvement, conversion or construction completed on a property granted a previous exemption or abatement pursuant to this article during the period in which such previous exemption or abatement is in effect shall be qualified for an exemption and abatement just as if such property had not received a previous exemption or abatement. In such case, the additional improvement, conversion or construction shall be considered as separate for the purposes of calculating exemptions and abatements pursuant to this ordinance, except that the assessed value of any previous improvement, conversion or construction shall be added to the assessed valuation as it was prior to that improvement, conversion alteration or construction for the purpose of determining the assessed valuation of the property.

**14. Ineligible Properties.**

No exemption or abatement shall be granted, or tax agreement entered into, pursuant to this ordinance with respect to any property for which property taxes are delinquent or remain unpaid or for which penalties for nonpayment of taxes are due. For purposes of this section, the existence of a tax installment agreement shall not be considered; all taxes, penalties and interest due and owing must be paid in full upon application.

**15. Applicable Taxes.**

The exemption of real property taxes provided pursuant to this article shall apply to property taxes levied for municipal purposes, school purposes, county government purposes, special improvement district purposes and for the purposes of funding any other property tax exemptions.

**16. Applicability of Statutory Regulatory Provisions.**

Every application for exemption or abatement and every exemption and abatement granted shall be subject to all the provisions of *N.J.S.A. 40A:21-1, et seq.*, and all rules and regulations issued pursuant thereto.

**17. Notice to Taxpayers.**

The appropriate notice of the adoption of this article shall be included in the mailing of annual property tax bills to each taxpayer owning property in an area subject to this ordinance during the first year following adoption of this ordinance.

**18. Municipal reports.**

a. The Mayor shall report, on or before October 1 of each year, to the Director of the Division of Local Government Services in the Department of Community Affairs and to the Director of the Division of Taxation in the Department of the Treasury the total amount of real property taxes exempted and the total amount abated within the Town in the current tax year for each of the following:

- i. improvements of dwellings;
- ii. construction of dwellings;
- iii. improvements and conversions of multiple dwellings;
- iv. improvements and commercial or industrial structures;
- v. construction of multiple dwellings under tax agreements; and
- vi. construction of commercial or industrial structures under tax agreements.

b. In the case of subsections a.(v) and a.(vi) above, the report shall state instead the total amount of payments made in lieu of taxes according to each formula utilized by the Town and the difference between the total amount and the total amount of real property taxes which would have been paid on the project had the tax agreement not been in effect, for the current tax year.

19. **Amendment.**

Any amendment to this ordinance shall not affect any exemption, abatement, or tax agreement previously granted and in force prior to the amendment.

20. **Severability.**

In the event that any provision of this Ordinance or the application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction, such declaration of invalidity shall not affect any other provision or application of this Ordinance which may be given effect, and, to realize this intent, the provisions and applications of this Ordinance are declared to be severable.

21. **Captions; Headings.**

Captions and headings contained in this Ordinance have been inserted only for the purpose of facilitating reference to the various sections and are not intended and shall not be utilized to construe the intent and meaning of the text of any section.

22. **Effective Date; Sunset Date.**

This article shall take effect upon adoption and publication as provided by law. Unless this ordinance is readopted by the Mayor and Council of the Town of Westfield, no application for exemptions or abatements shall be filed for exemptions or abatements to take initial effect in the eleventh tax year or any tax year occurring thereafter.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JUNE 9, 2020**

**WHEREAS**, Accurate Sewer and Drain LLC, 528 Downer Street, Westfield, NJ has placed the required cash bond of \$500.00 to cover Road Opening Permit No. 19-107 for 526 Lenox Avenue, and

**WHEREAS**, Accurate Sewer and Drain LLC has requested that this amount be returned, and

**WHEREAS**, the Town Engineer has inspected the roadway excavation and has found the excavation to have been properly repaired.

**NOW THEREFORE BE IT RESOLVED**, that the Treasurer be authorized to draw a warrant in the name of Accurate Sewer and Drain LLC, 528 Downer Street, Westfield NJ 07090.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JUNE 9, 2020**

**RESOLVED**, that the Town Treasurer be authorized to refund the following fees to the following individual:

<b><u>Name</u></b>	<b><u>Account</u></b>	<b><u>Class</u></b>	<b><u>Fee</u></b>
Daniel Kelly 553 Edgar Road Westfield, NJ 07090	#195 Membership Refund/Pool 9-03-55-920-202	Pool Membership 2020 Resident/Senior Citizen	\$90.00
Federico Ceraso 742 Rahway Ave w/Childcare Westfield, NJ 07090	#195 Membership Refund/Pool 9-03-55-920-202	Pool Membership 2020 Resident/Family of 4 or less	\$520.00
Susan Frigand 17 Sandra Circle Westfield, NJ 07090	#195 Membership Refund/Pool 9-03-55-920-2020	Pool Membership 2020 Resident/Senior Citizen	\$90.00
Elizabeth Pearson 131 North Cottage Place Westfield, NJ 07090	#195 Membership Refund/Pool 9-03-55-920-202	Pool Membership 2020 Resident/Family of 5 or more	\$520.00
Maryann Reilly 209 Ayliffe Ave Westfield, NJ 07090	#195 Membership Refund/Pool 9-03-55-920-202	Pool Membership 2020 Resident/Parent-Child	\$300.00
Arup Das 1325 Overhill Street Westfield, NJ 07090	#195 Membership Refund/Pool 9-03-55-920-202	Pool Membership 2020 Resident/Family of 4 or less	\$420.00
Diana Taylor 694 Westfield Ave Westfield, NJ 07090	#195 Membership Refund/Pool 9-03-55-920-202	Pool Membership 2020 Resident/Senior Citizen	\$90.00
Ryan Oligino 716 Oak Ave Westfield, NJ 07090	#195 Membership Refund/Pool 9-03-55-920-202	Pool Membership 2020 Resident/Family of 4 or less	\$420.00
Maria Losa 120 North Cottage Place Westfield, NJ 07090	#195 Membership Refund/Pool 9-03-55-920-202	Pool Membership 2020 Resident/Parent-Child	\$300.00

Sunny Kordower  
11 Marlboro Lane  
Colonia, NJ 07067

#195  
Membership Refund/Pool  
9-03-55-920-202

Pool Membership 2020      \$155.00  
Non-Resident/Senior Citizen

Jessie Lebwohl  
407 Quantuk Lane  
Westfield, NJ 07090

T-05-600-071  
Tennis/Red

Refund/Program Cancelled      \$77.00  
Jr. Tennis/Spring – Pee Wee/Tue-4:00  
Oliver Lebwohl



**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JUNE 9, 2020**

RESOLVED that the Chief Financial Officer be authorized to draw a warrant in the amount of \$56.40 to the order of New Jersey Department of Health, P.O. Box 369, Trenton, New Jersey for Dog Licenses issued by the Town Clerk for the month of May 2020.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JUNE 9, 2020**

RESOLVED, that the Chief Financial Officer be and hereby is, authorized to draw warrant for unused parking permit fee as follows:

David Gantz 612 Maple Street Westfield, NJ 07090	Lot 9	#20080060	\$406.00
Arthur Mason 617 Prospect Street Westfield, NJ 07090	SS RR Stn/Lot 3	#20030425	\$406.00
John T. Butler 96 Rosewood Avenue Springfield, NJ 07081	SS RR Stn/Lot 3	#20030325	\$406.00
Robert Saunders 241 North Avenue West Westfield, NJ 07090	Lot 8	#20080427	\$150.00

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JUNE 9, 2020**

RESOLVED that the Chief Financial Officer be, and he hereby is authorized to draw warrants to the following persons, these amounts being overpaid for 2020:

Block/Lot/Qualifier		Quarter/Year
<u>Name</u>	<u>Property Address</u>	<u>Amount</u>
2608/16	608 Hort Street	3 <sup>rd</sup> /2020
Halloran, Eileen		\$1,459.20

**Check payable and mail to:**

Reverse Mortgage Service c/o Lereta LLC  
P O Box 35605  
Dallas, Texas 75235-9788

Attn: Refund (Marian Good)

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JUNE 9, 2020**

RESOLVED that the Treasurer be and he hereby is authorized to draw warrants to the order of the following persons, this being the amount taxes were overpaid for the year 2019 pursuant to the Tax Court of New Jersey:

Block/Lot

<u>Name</u>	<u>Address</u>	<u>Year</u>	<u>Amount</u>
2302/17 Greco, Peter & Carol	7 Stanley Oval	2019	\$3,371.20
4206/23 Cassidy, Thomas E & Gail A	547 Shackamaxon Drive	2019	\$1,081.45

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO. 2020**

**FINANCE POLICY COMMITTEE**

**JUNE 9, 2020**

**WHEREAS**, the Town of Westfield wishes to redesign its website; and

**WHEREAS**, the Town of Westfield obtained proposals and conducted interviews with three (3) web development vendors; and

**WHEREAS**, CivicPlus is a web development vendor which offers an integrated technology platform specifically for local government agencies; and

**WHEREAS**, the Town of Westfield has determined that the CivicPlus platform provides the capabilities and functionality sought by the Town of Westfield for the best price; and

**WHEREAS**, SHI International, 290 Davidson Avenue, Somerset, New Jersey 08873 a software reseller, has been awarded New Jersey State Contract # M0003-89851 for software license, and related services for the period 09/01/2015 to 06/30/2020; and

**WHEREAS**, SHI International submitted a proposal to the Town of Westfield for website redesign services which includes the CivicPlus platform at a cost of \$68,668.36; and

**WHEREAS**, the Town Treasurer has certified to the availability of adequate funds for payment in accordance with N.J.A.C. 5:30 1.10 to SHI International in an amount not expected to exceed \$68,668.36, with \$40,000.00 to be charged to Account No. 9-01-100-256 and the remaining \$28,668.36 to be charged to Account No. #0-01-100-256, both under Purchase Order No. 20-01676.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Westfield that a contract for the aforementioned services be and hereby is awarded to SHI International, 290 Davidson Avenue, Somerset, New Jersey 08873 at a fee not to exceed \$68,668.36; and

**BE IT FURTHER RESOLVED** that the proper Town Officials be and hereby are authorized to take whatever actions are appropriate in the execution of discharge of this Contract

**TOWN OF WESTFIELD  
WESTFIELD, NEW JERSEY**

**RESOLUTION NO. XXX-2020**

**Resolution authorizing contract for purchase of lighting in connection with Westfield 300 not in meeting packet. Document is being prepared by Town Attorney**

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**FINANCE POLICY COMMITTEE**

**JUNE 9, 2020**

**RESOLVED** that warrants noted below be drawn to the order of Westfield Board of Education for Local School Taxes as provided in the 2021-21 budget, in accordance with R.S. 54:4-75:

July 6, 2020		\$6,615,901.00
July 21, 2020	Debt Service	1,107,675.00
August 7, 2020		8,232,252.00
September 3, 2020		8,567,497.00
September 10, 2020	Debt Service	837,509.00
October 6, 2020		9,436,252.00
November 3, 2020		9,436,252.00
December 4, 2020		9,436,251.00
January 5, 2021		8,779,213.00
February 5, 2021		8,779,213.00
March 1, 2021	Debt Service	756,460.00
March 8, 2021		7,828,338.00
April 5, 2021		8,779,212.00
May 4, 2021		8,779,212.00
June 4, 2021		<u>8,779,212.00</u>
TOTAL		<u>\$106,150,449.00</u>

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**

**RESOLUTION NO.**

**CODE REVIEW & TOWN PROPERTY COMMITTEE**

**JUNE 9, 2020**

WHEREAS, land use is an essential component of overall sustainability for a municipality; and

WHEREAS, poor land-use decisions can lead to and increase societal ills such as decreased mobility, high housing costs, increased greenhouse gas emissions, loss of open space and the degradation of natural resources; and

WHEREAS, well planned land use can create transportation choices, provide for a range of housing options, create walkable communities, preserve open space, provide for adequate recreation, and allow for the continued protection and use of vital natural resources; and

WHEREAS, Given New Jersey's strong tradition of home rule and local authority over planning and zoning, achieving a statewide sustainable land use pattern will require municipalities to take the lead;

WHEREAS, in 2019, the Town of Westfield adopted by resolution a Master Plan Reexamination Report (MPRR) that included a vision statement, guiding principles, and goals and objectives, as well as over 30 recommended actions, that explicitly addressed sustainability and elaborate on the seven sustainability elements listed below.

NOW THEREFORE, we the Town of Westfield resolve to apply the seven land use principles described below and the MPRR sustainability recommendations to guide the development of future Master Plan Elements, including initially during the stakeholder engagement and public participation process supporting the preparation of a Unified Land Use and Circulation Element to its Master Plan (updating the existing Land Use Element and Circulation Element) as well as to update our land-use zoning, natural resource protection, and other ordinances accordingly. The adopted Sustainable Land Use Pledge resolution will be distributed to the Planning Board, Zoning Board, Green Team and other relevant boards and commissions.

**Regional Cooperation** - We pledge to reach out to administrations of our neighboring municipalities concerning land-use decisions, and to take into consideration regional impacts when making land-use decisions.

**Transportation Choices** - We pledge to create transportation choices with a Complete Streets approach by considering all modes of transportation, including walking, biking, transit and automobiles, when planning transportation projects and reviewing development applications. We will reevaluate our parking with the goal of limiting the amount of required parking spaces,



promoting shared parking and other innovative parking alternatives, and encouraging structured parking alternatives where appropriate.

**Natural Resource Protection** - We pledge to take action to protect the natural resources of the State for environmental, recreational and agricultural value, avoiding or mitigating negative impacts to these resources. Further, we pledge to complete a Natural Resources Inventory when feasible to identify and assess the extent of our natural resources and to link natural resource management and protection to carrying capacity analysis, land-use and open space planning.

**Mix of Land Uses** - We pledge to use our zoning power to allow for a mix of residential, retail, commercial, recreational and other land use types in areas that make the most sense for our municipality and the region, particularly in downtown and town center areas.

**Housing Options** - We pledge, through the use of our zoning and revenue generating powers, to foster a diverse mix of housing types and locations, including single- and multi-family, for-sale and rental options, to meet the needs of all people at a range of income levels.

**Green Design** - We pledge to incorporate the principles of green design and renewable energy generation into municipal buildings to the extent feasible and when updating our site plan and subdivision requirements for residential and commercial buildings.

**Municipal Facilities Siting** - We pledge, to the extent feasible, to take into consideration factors such as walkability, bikability, greater access to public transit, proximity to other land-use types, and open space when locating new or relocated municipal facilities.

**TOWN OF WESTFIELD**  
**WESTFIELD NEW JERSEY**  
**RESOLUTION NO.**

**CODE REVIEW AND**  
**TOWN PROPERTY COMMITTEE**

**JUNE 9, 2020**

**WHEREAS**, pursuant to his authority under the New Jersey Civilian Defense and Disaster Control Act, N.J.S.A. App.A:9-30 *et seq.*, and the New Jersey Emergency Health Powers Act, N.J.S.A. 26:13-1 *et seq.*, Governor Philip D. Murphy has declared both a Public Health Emergency and State of Emergency in this State, in response to the COVID-19 pandemic; and

**WHEREAS**, as COVID-19 continued to spread across New Jersey, the Governor issued a series of Executive Orders pursuant to his statutory authority, which orders have been aimed at protecting the health, safety, and welfare of the public against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-149 (2020); and

**WHEREAS**, Executive Order No. 104 limited all restaurants, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, to offering food delivery and/or take-out services only, meaning that they could not allow the on-premises consumption of food or beverages; and

**WHEREAS**, as the State continues to see a decrease in disease transmission, the Governor announced a multi-stage plan to reopen businesses and activities in the State; and

**WHEREAS**, as part of that plan, on June 3, 2020, Governor Murphy signed Executive Order 150, which permits, beginning on June 15, 2020, food or beverage establishments, such as restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license; and bars and all other holders of a liquor license with retail consumption privileges, to offer in-person service at outdoor areas only; and

**WHEREAS**, pursuant to Executive Order 150, the New Jersey Commission of Health has issued Executive Order 20-014, which provides detailed protocols for food or beverage establishments offering services in outdoor areas; and the Acting Director of the New Jersey Division of Alcoholic Beverage Control issued a Special Ruling Establishing a Temporary COVID-19 Permit to Expand Licensed Premises; and

**WHEREAS**, Executive Order 150 grants to municipalities the authority to make all decisions with respect to establishing the process for allowing and determining the location of restaurants or bars to expand their service footprint on their property and potentially into shared spaces in a way that comports with public safety; and

**WHEREAS**, the Mayor and Council want to ensure that outdoor seating for food or beverage establishments is undertaken in a manner that both returns those businesses to successful operation quickly and in a manner consistent with the health and safety concerns of Covid-19, and also does not interfere with the operations of non-food or beverage retail establishments, which are also permitted to re-open on June 15, 2020, pursuant to Executive Order 150.

**NOW THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Town of Westfield, for so long as Executive Order 150 remains in effect, as follows:

1. The Clerk of the Town of Westfield (or designee) is directed to provide to all food or beverage establishments a copy of Executive Order 150 and Executive Order 20-014; and to provide ABC licensees and permittees with on-premises retail consumption privileges a copy of the ABC Acting Director's Special Ruling.
2. The Clerk of the Town of Westfield (or designee) shall prepare and provide to all food or beverage establishments an application form to permit in-person service at outdoor areas, which application form shall at a minimum require applicants to provide a sketch to the Town Clerk of the Applicant's proposed outdoor seating plan.
3. The Clerk shall process such applications in an expedient manner, and shall consult with such other Town officials, and the Executive Director of the Downtown Westfield Corporation, as necessary in order to ensure that the outdoor seating plan protects the health and safety of all of the Applicant's employees, patrons of such food or beverage establishments, and residents generally.
4. No fee shall be charged by the Clerk for the submission or approval of such applications.
5. Applications shall be approved in a manner that is equitable both in relation to other food or beverage establishments, and to other retail establishments in the immediate proximity to such food or beverage establishments.
6. The Mayor and Council do hereby approve the use of any and all public property and rights of way as determined by the Town Clerk to be necessary and appropriate for outdoor seating for food or beverage establishments.
7. Notwithstanding any other provision of the Town Code of the Town of Westfield, the Clerk (or designee) may permit outdoor expansion areas into areas such as decks, patios, sidewalks, and parking lots adjacent to or contiguous with the licensed premises, or parks, "parklets" established by a municipality, and other public rights-of-way, as long as these areas are accessible from the licensed premises and comply with all provisions of Executive Order 150, Executive Order 20-014, and the ABC Special Ruling concerning public health and social distancing requirements.
8. Notwithstanding any other provision of the Town Code, the Clerk (or designee) may approve such signage as proposed by the Applicant and as are necessary and appropriate to carry out the provisions of Executive Order 150, Executive Order 20-014, and the ABC Special Ruling.

**BE IT FURTHER RESOLVED** that the proper Town Officials be, hereby are, authorized to take whatever actions are appropriate in the execution and discharge of this Resolution.

**TOWN OF WESTFIELD  
WESTFIELD, NEW JERSEY**

**GENERAL ORDINANCE NO. 2172**

**AN ORDINANCE AMENDING CHAPTER TWELVE OF THE TOWN CODE OF  
THE TOWN OF WESTFIELD, NEW JERSEY, IN ORDER TO REGULATE  
THE HOURS DURING WHICH LOUD MECHANICAL EQUIPMENT MAY BE USED**

**WHEREAS**, the Town of Westfield (the “Town”) regulates the hours in which an individual may operate loud machinery outdoors as well as indoors, in certain circumstances, but varies those hours depending on the day of the week; and

**WHEREAS**, excessive sound is a serious hazard to the public health, welfare, safety, and quality of life for residents of the Town, and

**WHEREAS**, the residents of the Town have a right to, and should be ensured of, an environment free from excessive sound.

**NOW, THEREFORE, BE IT RESOLVED:**

**SECTION I.** Section 14-12A of Chapter XIV, “Offenses — Miscellaneous,” of the Town Code shall be and is hereby amended as follows:

**Sec. 14-12A. Prohibition on the Use of Mechanical Equipment Which Makes Loud and Disturbing Noises.**

Any person may lawfully operate any machinery or mechanical device which creates loud and disturbing noises between the hours of:

Monday through Friday: 8:00 a.m. to 8:00 p.m.

Saturday: 9:00 a.m. to 8:00 p.m.

Sunday: 9:00 a.m. to 5:00 p.m.

It shall be unlawful for any person to operate such machinery or mechanical devices during hours not described above outside of a building or structure or inside a building or structure with open doors or windows. It shall be presumptive that the operation of the following specific types of mechanical equipment create loud and disturbing noise.

- (a) Gasoline or electric powered lawn mowers.
- (b) Gasoline or electric powered chain saws.
- (c) Gasoline powered weed cutters.
- (d) Gasoline or electric powered leaf blowers.
- (e) Gasoline or electric powered chippers or shredders.
- (f) Any type of equipment used in construction which is powered by electricity, air, gasoline or diesel fuel.
- (g) Portable gasoline powered electrical generators.
- (h) Electric powered circular or reciprocating saws.
- (i) Air compressors or tools driven by compressed air.

Such prohibition shall not apply to emergency situations where the use of such equipment is necessary to restore vital public services such as, but not limited to, utility, transportation, and communication services. Such prohibition shall also not apply to the Town of Westfield or its employees in connection with the performance of municipal functions.

**SECTION II.** All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

**SECTION III.** If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

**SECTION IV.** This Ordinance shall take effect after passage and publication in the manner provided by law.

**TOWN OF WESTFIELD  
WESTFIELD, NEW JERSEY  
GENERAL ORDINANCE NO. 2173**

**AN ORDINANCE AMENDING THE CODE OF THE TOWN OF WESTFIELD, NEW JERSEY, AS IT RELATES TO THE STORAGE AND DELIVERY OF PREMANUFACTURED (MODULAR) HOMES AND BUILDING COMPONENTS**

**WHEREAS**, the Mayor and Town Council of the Town of Westfield (the “Town”) are charged with establishing and maintaining safe passage and safe conditions within the Town; and

**WHEREAS**, pursuant to that obligation, the Mayor and Town Council adopted, on October 29, 2019, General Ordinance No. 2148, an ordinance to regulate the storage and delivery of premanufactured (modular) homes, in order to ameliorate certain negative impacts to property owners adjoining the sites upon which modular homes are being built; and

**WHEREAS**, there exists a need to amend that ordinance in certain respects, including specifically to allow multi-day storage of modular homes and modular home sections, when appropriate, while still protecting the right of adjoining neighbors to the quiet enjoyment and peaceful habitation of their own properties

**NOW, THEREFORE, BE IT RESOLVED**, as follows:

**SECTION I.** Section 8-42, Chapter 8, Buildings, Article VI, Maintenance of Sites Under Construction, of the Town Code shall be and is amended as follows:

**§8-42. Modular and Premanufactured Homes and Components.**

- A. **Modular Home/Premanufactured Home Defined.** A “MODULAR HOME” or, interchangeably, “PREMANUFACTURED HOME” is any building, or any building component thereof, of closed construction including but not limited to modular housing that is factory-built for single family and multifamily (including closed-wall, panelized housing), and other modular, nonresidential buildings.
- B. **Storage of Modular Homes Prohibited.** Storage of delivered modular homes and premanufactured homes is prohibited at any place within the Town, except that storage of modular homes and premanufactured homes may be permitted on any Town property with the consent of and as so designated by the Town Engineer, for a fee of \$500.00 per day, and for such length of time as determined by the Town Engineer; and except that, in appropriate circumstances as determined by the Town Engineer, storage of modular homes and premanufactured homes may occur on private property other than the site at which the modular or premanufactured home is to be constructed, for a maximum period of five days. If the Town Engineer determines that extraordinary weather conditions make it impossible to remove any modular or premanufactured home or any component thereof, stored on private

property, the Town Engineer may permit the continued storage beyond five days, but only until such extraordinary weather conditions have ended.

- C. **Delivery of Modular Homes.** Modular homes and premanufactured homes shall be delivered to the site where they are to be constructed or set no earlier than 7:00 a.m. nor later than 10:00 a.m. and shall be constructed, installed or set on the day of delivery prior to 6:00 p.m.
- D. **Predelivery Notice Required; Building Department.** No later than five business days prior to the anticipated date of delivery of a modular home or a premanufactured home, or any component thereof, the owner, contractor, manufacturer or supplier of such modular home or premanufactured home or any component thereof, shall deliver to the Building Department of the Town, on a form provided by that Department, the following information concerning the modular home or premanufactured home to be delivered:
- (1) The date of anticipated delivery.
  - (2) The anticipated time of delivery within an accuracy range of one hour, that is to say if a delivery time of 7:00 a.m. is set forth, the modular home or the premanufactured home must be delivered between the hours of 7:00 a.m. and 8:00 a.m.
  - (3) The date of start of construction, erection, installation or setting.
- E. **Predelivery Notice Required; Adjoining Neighbors.** The owner of the property, or its authorized representative, to which a modular or premanufactured home, or any component thereof is to be delivered, shall within 5 days of the anticipated delivery date, provide to each owner of lots adjoining the subject property a copy of the form provided to the Building Department as required under subsection 8-42(D) above. Notice to adjoining property owners shall be given by (1) serving a copy thereof on the adjoining property owner as reflected in the current records of the tax assessor of the Town, or (2) mailing a copy thereof by certified mail to the adjoining property owner at his address as reflected in the current records of the tax assessor of the Town.
- F. **Required Bond.** Every predelivery notice submitted to the Building Department shall be accompanied by a bond in the form of a cashier's check or certified check made payable to the Town of Westfield in the amount of \$5,000 to ensure the remediation and repair of any damage done to any Town property, public street or right of way in the course of the delivery, installation, erection or construction of any modular home or premanufactured home. The cashier's check or certified check shall be given to the Building Department of the Town, which shall immediately tender it to the Chief Financial Officer of the Town for deposit in the appropriate account of the Town of Westfield as the Chief Financial Officer shall determine. Such account shall be available to be utilized to return the bond fees upon application by the owner,

contractor, manufacturer or supplier, as the case may be, 30 days following the issuance of the appropriate certificate of occupancy.

**G. Insurance; Hold Harmless.** In circumstances in which the Town permits the storage of modular or premanufactured homes, or components thereof, on Town property, the owner, contractor or applicant storing such property shall first provide to the Town a written agreement indemnifying and holding harmless the Town from all loss, damage, claim or expense resulting from such storage, including any and all expenses incurred in the defense of any litigation arising out of injury to any person or property resulting from such storage. Additionally, the owner, contractor or applicant shall provide to the Town Engineer a copy of an insurance policy or certificate of insurance, issued by a company duly authorized to transact business under the laws of this State and naming the Town of Westfield as an additional insured, providing for the payment of not less than \$1,000,000 to satisfy all claims for damage by reason of bodily injuries to, or the death of, any person as a direct or indirect result of the placement or storage of any modular or premanufactured home, or any component thereof, and further providing for the payment of not less than \$300,000 to satisfy all claims for property damage occurring as a direct or indirect result of the placement or storage of any modular or premanufactured home, or any component thereof, on Town property.

**SECTION II.** All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

**SECTION III.** If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

**SECTION IV.** This Ordinance shall take effect after passage and publication in the manner provided by law.



**TOWN OF WESTFIELD  
WESTFIELD, NEW JERSEY  
GENERAL ORDINANCE NO. 2174**

**AN ORDINANCE ESTABLISHING THE WESTFIELD MENTAL HEALTH COUNCIL  
FOR THE TOWN OF WESTFIELD**

**WHEREAS**, the purpose of the Westfield Mental Health Council (“Council”) is to protect and promote the mental health and welfare of all Town of Westfield residents;

**WHEREAS**, the purpose of the Council is to facilitate the creation of a comprehensive mental health support system for the Westfield community that promotes lifelong mental wellness, educates the public, ensures access to available resources, and agrees on and coalesces around core community values;

**WHEREAS**, everyone has a role to play in shaping a community that cares for all its citizens, and the mental health of a community can only be protected if residents stand together and take every opportunity – in our homes, workplaces, and community – to support each other and be there for those in need; and

**WHEREAS**, for the betterment of the Town of Westfield, the Council shall foster a stigma-free community that promotes a culture of compassion, acceptance, kindness and empathy. The Council will develop recommendations for initiatives that educate and provide enhanced support and resources for mental health in the community. The Council shall coordinate and align efforts among the various organizations that provide mental health services; create greater awareness for existing community resources; break the stigma that exists around mental health; identify best practices for support and crisis prevention measures; and establish additional mental health programs and support for Westfield families and youth as identified by the community.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Town of Westfield, County of Union, and State of New Jersey as follows:

**Article I. Establishment.**

There is hereby established the Westfield Mental Health Council of the Town of Westfield having the powers and duties hereinafter enumerated.

**Article II. Membership.**

A. The Council shall consist of ten (10) members appointed by the Mayor with the advice and consent of the Town Council.

B. The Council shall be comprised of appointed members and interested groups in the Town, as well as resident volunteers, as follows: Mayor's representative; Town Council representative; representative from non-profit organizations that provide mental health services; Westfield Public

Schools representative; Board of Health representative; medical mental health professional; and four (4) residents to be selected from volunteer applications. Volunteers shall demonstrate a strong personal interest in this field and interest in making an impact in the community related to mental health.

C. In addition to the foregoing, there shall be two (2) alternate members, designated as Alternate Number 1 and Alternate Number 2, who shall be permitted to vote only in the absence of a regular member. The Mayor shall also appoint one (1) member of the Town Council to act ex-officio as the liaison between the Council and the Town Council.

D. The members shall serve without compensation and must be residents of the Town of Westfield, except that they shall be entitled to be reimbursed for their pre-approved reasonable expenses incurred in the performance of their duties, and within the budgetary limitations of the Council.

E. The Mayor, with the approval of the Town Council, shall name one (1) member of the Council as Chairperson to serve for one (1) year.

### **Article III. Terms.**

A. All members of the Council shall serve for a term of two years, except that upon the original organization of the Council, three members shall be appointed for a term of one year; three members for a term of two years and four members for a term of three years. Thereafter, the term of each member shall be for two years. All terms shall be measured from the first day of the year of appointment and any vacancies shall be filled for the unexpired term in the same manner as the original appointment was filled.

B. Any member of the Council may be removed by the Mayor, with the advice and consent of the Town Council for neglect of duty, misconduct or malfeasance in office, after being given a written statement of the charges and an opportunity to be heard thereon by the Town Council. In the event of a vacancy, the Mayor with the approval of the Town Council, shall appoint another person to fill the unexpired term of such vacancy.

C. In addition, cause for removal may be found where a member is absent without prior notification to the Chairperson from three (3) consecutive meetings or from 50 percent of the Council's regularly scheduled meetings for a year.

### **Article IV. Powers and Duties.**

The Council shall determine the mental health support needs of the Town, and shall have the power and duty to manage, oversee, direct and establish policies and standards for mental health support programs. It shall adopt rules and regulations necessary to exercise its responsibilities. In carrying out its responsibilities, the Council shall have the following powers and duties:

A. Provide facilities and programs to promote the mental health of the community.

B. Raise awareness of the local mental health resources available within the Town regardless of income; link residents in need to local mental health resources; and create a culture wherein residents who are in need of mental health services are supported by their community and neighbors and feel free to seek treatment.

C. Disseminate educational, informational and promotional materials, in all available media formats, to foster an environment of mental wellbeing, including but not limited to, mailings, newsletters, banners, brochures, flyers, websites, and social media presence.

D. Recommend for adoption by Resolution of the Mayor and Town Council all such guidelines, rules and regulations as the Council shall deem necessary and proper to carry out the purposes and objectives of this Ordinance.

#### **Article V. Expenditure of Funds.**

A. The Town Council may, but is not required to, annually appropriate funds for the use of the Council. The Council shall conduct its affairs and policies each year within the amount appropriated by the Town Council for such purposes and at no time shall expend more than the sum so appropriated.

B. In consultation with the Department of Health and such other departments as appropriate, the Council shall also establish funding priorities for services and programs that address mental health treatment for residents; review and evaluate applications requesting funding from the Town; submit funding recommendations for public and social services to the Mayor and Town Council; and monitor past and present uses of funds by services and programs that received funds from the Town.

#### **Article VI. Meetings.**

A. Regular meetings of the Council shall be held at the call of the Chairperson provided that a meeting may also be called upon the written request of five (5) regular members of the Council. At least two (2) days' notice of any such meeting shall be given to all regular and alternate members unless such notice is waived in writing.

B. A quorum shall consist of a majority of the regular members of the Council, except that in the absence of a regular member an alternate member may take the place of a regular member in establishing said quorum.

C. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of the Council. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, alternate number one shall vote.

#### **Article VII. Repeal and Severability.**

All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

#### **Article VIII. Effective Date.**

This Ordinance shall take effect after posting, publication and final passage in the manner prescribed by law.

**TOWN OF WESTFIELD  
WESTFIELD, NEW JERSEY  
GENERAL ORDINANCE NO. 2175**

**AN ORDINANCE ESTABLISHING THE WESTFIELD SENIOR ADVISORY  
COUNCIL, ALSO KNOWN AS “LIFELONG WESTFIELD,” FOR THE TOWN OF  
WESTFIELD**

**WHEREAS**, the Westfield Senior Advisory Council (“Advisory Council”) is herein created to generate public awareness of and support for people age 62 and older (“senior residents”) residing in the Town of Westfield;

**WHEREAS**, the purpose of the Advisory Council is to review issues pertinent to senior residents and support their ability to remain in the Town of Westfield (age-in-place) by providing them with creative and meaningful programs, activities and services; and

**WHEREAS**, the Advisory Council acts in an advisory capacity to the Mayor and Town Council in matters affecting senior residents with regard to their health, education, employment, housing, transportation and recreation of the Town’s senior residents.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Town Council of the Town of Westfield, County of Union, and State of New Jersey as follows:

**Article I. Establishment.**

There is hereby established the Westfield Senior Advisory Council for the Town of Westfield having the powers and duties hereinafter enumerated.

**Article II. Membership.**

A. The Advisory Council shall consist of ten (10) members appointed by the Mayor with the advice and consent of the Town Council. The members shall be residents of the Town of Westfield and must be at least 62 years of age. An exception may be made at the discretion of the Town Council to appoint no more than two (2) members under the age of 62 who have either education and/or experience which is deemed to be beneficial to the Advisory Council.

B. In addition to the foregoing, there shall be two (2) alternate members who shall be permitted to vote only in the absence of a regular member. The Mayor shall also appoint two (2) ex-officio members as liaisons between the Advisory Council and the Town Council. Such ex-officio members may include, but are not limited to a member of the Town Council, the Supervisor of the Westfield Community Center, or the Director of the Westfield Recreation Department.

C. The members must be residents of the Town of Westfield and shall serve without compensation, except that they shall be entitled to be reimbursed for their reasonable expenses incurred in the performance of their duties, and within the budgetary limitations of the Advisory Council.

D. The Mayor, with the approval of the Town Council, shall name one (1) member of the Advisory Council as Chairperson to serve for one (1) year.

### **Article III. Terms.**

A. All regular members shall serve for a term of one (1) year and may serve for not more than three (3) terms. All terms shall be measured from the first day of the year of appointment and any vacancies shall be filled for the unexpired term in the same manner as the original appointment was filled.

B. Any member of the Advisory Council may be removed by the Mayor and Council for cause, on written charges served upon the member and after a hearing thereon, at which the member shall be entitled to be heard in person or by counsel. In the event of a vacancy, whether for cause or by resignation, the Mayor with the approval of the Town Council shall appoint another person to fill the unexpired term of such vacancy.

C. In addition, cause for removal may be found where a member is absent without prior notification to the Chairperson from three (3) consecutive meetings or from 50 percent of the Advisory Council's regularly scheduled meetings for a year. The Chairperson shall report to the Town Council every six (6) months as to such absenteeism.

### **Article IV. Powers and Duties.**

In carrying out its responsibilities, the Advisory Council shall have the following powers and duties:

A. Make recommendations to the Mayor and Town Council on all matters pertaining to programs, activities, and services which impact senior residents in the Town of Westfield.

B. Coordinate with the Westfield Recreation Department, the Westfield Community Center, and other, similar organizations to provide programs, activities and services to senior residents.

C. Recommend changes in Town of Westfield policies which impact senior residents.

D. Prepare and submit to the Mayor and Town Council an annual review of senior-related programs, activities and services.

E. Disseminate educational, informational and promotional materials in all available media formats, to foster an environment where senior residents can receive the following: (1) recommendations for services in the areas of health information, referrals, and volunteer services; (2) counseling, outreach, recreation, education and other needed services; and (3) information regarding senior programs, intergenerational activities, and other programs, activities and services.

F. Maintain an online Senior Services Directory and Senior Activities Calendar that offer a regularly updated list of locally available programs, activities and services for health, education, employment, recreation, counseling, fitness and nutrition, housing, social and cultural activities, transportation, and volunteerism.

G. Recommend for adoption by Resolution of the Mayor and Town Council all such guidelines, rules and regulations as the Advisory Council shall deem necessary and proper to carry out the purposes and objectives of this Ordinance.

#### **Article V. Expenditure of Funds.**

A. The Town Council may, but is not required to, annually appropriate funds for the use of the Advisory Council.

B. The Advisory Council shall conduct its affairs and policies each year within the amount appropriated by the Town Council for such purposes and at no time shall expend more than the sum so appropriated.

#### **Article VI. Meetings.**

A. Regular meetings of the Advisory Council shall be held at the call of the Chairman, provided that a meeting may also be called upon the written request of five (5) regular members of the Advisory Council. At least two (2) days' notice of any such meeting shall be given to all regular and alternate members unless such notice is waived in writing.

B. A quorum shall consist of a majority of the regular members of the Advisory Council, except that in the absence of a regular member, an alternate member may take the place of a regular member in establishing said quorum.

C. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of the Advisory Council. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, alternate number one shall vote.

D. The Advisory Council shall have the power to adopt bylaws for the conduct of its meetings.

#### **Article VII. Repeal and Severability.**

All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

#### **Article VIII. Effective Date.**

This Ordinance shall take effect after posting, publication and final passage in the manner prescribed by law.



**TOWN OF WESTFIELD  
WESTFIELD, NEW JERSEY**

**GENERAL ORDINANCE NO. 2176**

**Ordinance not provided in meeting packet. Document being prepared by Town Attorney**

**TOWN OF WESTFIELD**  
**WESTFIELD, NEW JERSEY**  
**GENERAL ORDINANCE NO. 2177**

**AN ORDINANCE AMENDING THE LAND USE ORDINANCE  
TO ESTABLISH REGULATE BOARDING HOUSES**

**WHEREAS**, pursuant to N.J.S.A. 40:55D-62, the New Jersey State Legislature has vested municipalities with the authority to adopt and amend zoning ordinances; and

**WHEREAS**, pursuant to N.J.S.A. 55:13B-1, et seq. and N.J.S.A. 40:52-10, et seq., the New Jersey State Legislature has vested municipalities with the authority to adopt policies and procedures for regulating rooming and boarding houses; and

**WHEREAS**, the Town of Westfield (the “Town”) has adopted zoning ordinances setting forth permitted and prohibited uses in residential zones throughout the Town; and

**WHEREAS**, the purpose of residential-single (“RS”) unit zones is to provide for areas of residential development that promote neighborhood quality, character, and livability, and minimizes adverse impacts to adjacent properties; and, that the purpose of residential-multiple (RM) unit zones is to accommodate specific dwelling types and developments with similar characteristics, and to respond to locational issues regarding adjacent land uses; and

**WHEREAS**, commercial overuse of dwelling units particularly in residential-single (RS) unit zones, has been a chronic problem adversely impacting neighborhood quality, character, and livability incompatible with the purposes of the RS unit zones; and

**WHEREAS**, the commercial overuse of dwelling units particularly in RS unit zones, is more compatible with the dwelling types and developments with similar characteristics in higher density areas along North and South Avenue of the Town; and

**WHEREAS**, commercial overuse generally refers to a dwelling unit where two or more rooms are rented, individually or separately, to tenants under separate rental agreements, or where rooms are rented individually or separately, resulting in multiple, independent living units where tenants do not share common access or financial responsibility for use of the dwelling unit as a whole, which is typically referred to as a “boarding house;” and

**WHEREAS**, the Town wishes to establish a boarding house ordinance to address the chronic problem of commercial overuse of dwelling units particularly in RS unit zones, to preserve neighborhood quality, character, and livability, compatible with the purposes of RS unit zones, and to more appropriately locate rooming houses in neighborhoods with similar densities and characteristics compatible the use of a dwelling unit as a boarding house; and

**WHEREAS**, the Mayor and Town Council find that there is substantial interest in furthering the public health, safety, and welfare by controlling density, by protecting the residential character of areas designated for residential use, by implementing its Master Plan in promoting home ownership and providing appropriate housing stock to meet the needs of the Town and its residents,

by establishing and enforcing minimum life safety standards, and by preserving the housing market located within the Town.

**NOW, THEREFORE, BE IT RESOLVED:**

**SECTION I.** Article 2, “Definitions,” of Chapter LUL, “Land Use Ordinance,” of the Town Code shall be and is hereby amended as follows:

**§ 2.05 Definitions: B.**

- A. **BALCONY** — An exterior structure of wood, masonry, metal, stone, asphalt or other substance, without a roof, the floor level of which is elevated above ground level more than four feet and either supported by, attached to or accessible from the principal building or structure.
- B. **BASEMENT** — An interior space, or portion thereof, having a floor level below the average outside elevation of ground at the foundation wall of the building or structure in which it is contained, and having a floor to ceiling height of not less than 6.5 feet. A basement shall be considered as a story where the finished surface of the floor above the basement is:
  - More than four feet above the average grade elevation;
  - More than four feet above the finished grade for 50% or more of the total building perimeter; or
  - More than 10 feet above the finished ground level at any point.
- C. **BAY WINDOW** — An alcove of a room projecting from an outside wall and having its own windows, usually but not always having a floor.
- D. **BEDROOM** — A room within a dwelling unit which is used for sleeping on a regular basis, usually containing a bed or similar device for sleeping and usually equipped with a door for purposes of privacy.
- E. **BLOCK** — A group of platted lots facing one side of one street between two cross streets.
- F. **BOARD** — The Planning Board, Zoning Board of Adjustment, or Board of Architectural Review, as applicable.
- G. **BOARD OF EDUCATION ADMINISTRATIVE OFFICE USE** — Any use by the Board of Education of any property owned or leased by it for administrative offices provided such Board of Education use shall not include schools or other Board of Education uses which are treated separately in this ordinance, and further provided that such use shall not include any use of property owned or leased by the Board of Education and thereafter permitted to be used by others under leases or other arrangement for purposes other than accomplishing the Board of Education administrative functions.
- H. **BOARD OF EDUCATION USE, OTHER** — Any use by the Board of Education of any property owned or leased by it provided such Board of Education use shall not include schools or Board of Education administrative office uses which are treated separately in this ordinance, and further provided that such use shall not include any use of property

owned or leased by the Board of Education and thereafter permitted to be used by others or leased by others under leases or other arrangements for purposes other than accomplishing the Board of Education functions.

- I. **BOARDING HOUSE** — The term “boarding house” means a single-family residence or either unit of a two-family residential use (duplex) or any unit in a multi-family residence in which two or more rooms are rented individually or separately, to tenants under separate rental agreements (whether oral, written, or implied), for valuable consideration. Housing protected by federal or state law, including housing for persons protected under the Fair Housing Act, 42 U.S.C. § 3604(f) and the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq. or housing otherwise subject to the Town’s Affordable Housing Regulations, shall not constitute a boarding house. Additionally, foster children placed in a lawful foster family home, a hotel/motel, community residential home with six or fewer residents, a nursing home, or a residential care facility shall not be considered a boarding house.
- J. **BOW WINDOW** — A bay window which is rounded.
- K. **BUILDING** — Any structure equipped with a roof, supported by columns, pillars or walls, and designed for temporary or permanent occupancy.
- L. **BUILDING EAVE HEIGHT** — The vertical distance from the grade plane to the lowest point of the roof for gable, hip, gambrel, mansard, and flat roof types. The grade plane representing the average of finished ground level adjoining the building at all exterior walls.
- M. **BULK AND LOT REGULATIONS** — Regulations involving building height, yard dimensions, lot area, lot width, lot frontage, lot depth, lot coverage by buildings or structures or other improvements, floor area ratio and other regulations of the dimensions of buildings, structures, yards or lots.
- N. **BUSINESS OR COMMERCIAL OFFICE** — A business or commercial establishment which does not offer a product or merchandise for sale to the public on the premises, but which provides a service to patrons as its primary function. Notwithstanding the above, and notwithstanding the fact that products or merchandise may not be for sale to the public on the premises, establishments offering personal services, such as barber and beauty shops, or repair services, such as radio and television repair shops, and similar businesses shall not be included in this definition of business or commercial office.
- O. **BUSINESS SERVICES** — Services primarily rendered to other business establishments on a fee or contract basis rather than to the general public. Such services as advertising and mailing, building maintenance, employment services, management and consulting services, protection services, equipment rental and leasing, commercial research development and testing, and photo finishing are examples of business services.

**SECTION II.** Article 2, “Definitions,” of Chapter LUL, “Land Use Ordinance,” of the Town Code shall be and is hereby amended as follows:

**§ 2.08 Definitions: F.**

- A. **FACADE** — The exterior vertical surface of a building including ornamentation, windows, doors and overhangs.
- B. **FAMILY** — Any number of persons, whether related by blood, marriage or adoption or not and regardless of whether a consideration is involved, living together in a single dwelling unit as a single housekeeping unit, provided they are in compliance with the minimum space requirement per person as set forth in Article 12.
- C. **FAMILY DAY CARE HOME** — The private residence of a family day care provider which is registered as a family day care home pursuant to the Family Day Care Provider Registration Act.
- D. **FEE SIMPLE** — A form of ownership or real estate where the owner or owners are entitled to the entire property with unconditional power of disposition during life and which passes to heirs upon death pursuant to the intestacy laws or if there is a Will to the devisee by Will.
- E. **FENCE** — An artificially constructed freestanding barrier of wood, wire, metal or any other natural or combination of materials erected for the enclosure or screening of areas of land supported by posts or other similar devices placed in the ground.
- F. **FINAL APPROVAL** — The official action of the Board taken on a major subdivision or site plan which has received preliminary approval after all conditions, engineering plans and other requirements have been completed or fulfilled and the required infrastructure approval improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.
- G. **FINAL PLAT** — The final map of all or a portion of the subdivision which is submitted for final Board approval in accordance with this ordinance and which, if approved, shall be filed with the proper county recording officer and which complies with the Map Filing Law.
- H. **FINAL SITE PLAN** — The final site plan containing all changes required in the preliminary site plan approval.
- I. **FIRE ESCAPE** — An emergency egress from a building used for human occupancy, constructed to meet the requirements of the current construction code.
- J. **FLOOD PLAIN** — An area adjacent to a flood way as defined by the federal emergency management administration.
- K. **FLOOD WATER DETENTION OR RETENTION BASIN** — Any storm drainage control technique which retards or detains storm water runoff from land or buildings by the use of a containment device such as a chamber or basin.
- L. **FLOOD WAY** — The space contained within the banks of a stream or river as defined by the Federal Emergency Management Administration.
- M. **FLOOR AREA, GROSS (GFA)** — The floor area of all floors of a building or structure having floors and measured from the exterior surface of the exterior walls of the building or structure.
- N. **FLOOR AREA, HABITABLE** — The area of that portion of a building or structure designed, intended, heated, and furnished for year round human occupancy, measured on each floor from the building's exterior walls and including the full horizontal area of each

floor of the building, regardless of whether or not an actual floor extends throughout it. Habitable Floor Area shall not include that portion of a finished attic equal to not more than 1/3 the area of the floor below. Habitable Floor Area shall not include that portion of an attached unheated garage floor area as follows:

RS-6, RS-8 and RS-10 Zones: Up to but not exceeding 250 square feet;

RS-12, RS-16, RS-24, and RS-40 Zones: Up to but not exceeding 450 square feet.

[Amended 9-29-2009 by Ord. No. 1941]

- O. FLOOR AREA RATIO — The Floor Area Ratio (FAR) is the Habitable Floor Area of all buildings on the site compared to the total area of the site.

[Amended 9-29-2009 by Ord. No. 1941]

- P. FRONT — [Deleted 11-21-2006 by Ord. No. 1878]

- Q. FRONT YARD — See “yard, front.”

- R. FRONTAGE — See “lot frontage.”

[Amended 11-21-2006 by Ord. No. 1878]

**SECTION III.** Article 11, “Zone District Regulations,” of Chapter LUL, “Land Use Ordinance,” of the Town Code shall be and is hereby amended as follows:

**§ 11.10 RM-12 Single Family and Two-Family Residence District**

- C. Conditional uses and structures. The following conditional uses and structures shall be permitted in the RM-12 district only if they comply with the appropriate regulations for such uses or structures in Article 18:

1. Non-profit chartered membership organizations;
2. Residential-type public utility facilities;
3. Certain cellular telecommunications antennas as set forth in Article 18; and
4. Boarding houses.

**SECTION IV.** Article 11, “Zone District Regulations,” of Chapter LUL, “Land Use Ordinance,” of the Town Code shall be and is hereby amended as follows:

**§ 11.11 RM-8 Single Family and Two-Family Residence District**

- C. Conditional uses and structures. The following conditional uses and structures shall be permitted in the RM-8 district only if they comply with the appropriate regulations for such uses or structures in Article 18:

1. Houses of worship;
2. Public and private non-profit schools;
3. Board of Education administrative offices;
4. Non-profit chartered membership organizations;
5. Residential-type public utility facilities;
6. Certain cellular telecommunications antennas as set forth in Article 18; and
7. Boarding houses.

**SECTION V.** Article 11, “Zone District Regulations,” of Chapter LUL, “Land Use Ordinance,” of the Town Code shall be and is hereby amended as follows:

**§ 11.12 RM-6 Single Family and Two-Family Residence District**

C. Conditional uses and structures. The following conditional uses and structures shall be permitted in the RM-6 district only if they comply with the appropriate regulations for such uses or structures in Article 18:

1. Houses of worship;
2. Non-profit chartered membership organizations;
3. Residential-type public utility facilities;
4. Certain cellular telecommunications antennas as set forth in Article 18; and
5. Boarding houses.

**SECTION VI.** Article 11, “Zone District Regulations,” of Chapter LUL, “Land Use Ordinance,” of the Town Code shall be and is hereby amended as follows:

**§ 11.13 RM-6D Single Family and Two-Family Residence District**

C. Conditional uses and structures. The following conditional uses and structures shall be permitted in the RM-6D district only if they comply with the appropriate regulations for such uses or structures in Article 18:

1. Non-profit chartered membership organizations;
2. Residential-type public utility facilities;
3. Certain cellular telecommunications antennas as set forth in Article 18; and
4. Boarding houses.

**SECTION VII.** Article 11, “Zone District Regulations,” of Chapter LUL, “Land Use Ordinance,” of the Town Code shall be and is hereby amended as follows:

**§ 11.20 P-1 Professional Office District**

C. Conditional uses and structures. The following conditional uses and structures shall be permitted in the P-1 district only if they comply with the appropriate regulations for such uses or structures in Article 18:

1. Houses of worship;
2. Non-profit chartered membership organizations;
3. Residential-type public utility facilities;
4. Certain cellular telecommunications antennas as set forth in Article 18; and
5. Boarding houses.

**SECTION VIII.** Article 11, “Zone District Regulations,” of Chapter LUL, “Land Use Ordinance,” of the Town Code shall be and is hereby amended as follows:

**§ 11.21 P-2 Professional Office District**

C. Conditional uses and structures. The following conditional uses and structures shall be permitted in the P-1 district only if they comply with the appropriate regulations for such uses or structures in Article 18:

1. Houses of worship;
2. Non-profit chartered membership organizations;
3. Residential-type public utility facilities;
4. Certain cellular telecommunications antennas as set forth in Article 18; and
5. Boarding houses.

**SECTION IX.** Article 11, “Zone District Regulations,” of Chapter LUL, “Land Use Ordinance,” of the Town Code shall be and is hereby amended as follows:

**§ 11.28 GB-3 General Business District**

C. Conditional uses and structures. The following conditional uses and structures shall be permitted in the GB-3 district only if they comply with the appropriate regulations for such uses or structures in Article 18:

1. Houses of worship;
2. Non-profit chartered membership organizations;
3. Gasoline filling stations and gasoline service stations;
4. Public garages;
5. Residential-type public utility facilities;
6. Certain cellular telecommunications antennas as set forth in Article 18; and
7. Boarding houses.

**SECTION X.** Article 18, “Conditional Uses,” of Chapter LUL, “Land Use Ordinance,” of the Town Code shall be and is hereby amended as follows:

**§ 18.02 List of Conditional Uses, Zones Where Permitted.**

The conditional uses indicated below shall be permitted only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in this article, and only upon the issuance of an authorization therefore by the Planning Board or the Board of Adjustment, as applicable. The conditional uses and the zones in which they are permitted are limited to the following:

- A. Residential cluster development in the RS-40 zone district;
- B. Assisted living facilities in the RS-16 zone district;
- C. Limited child care homes in the RS-40, RS-24, RS-16, RS-12, RS-10, RS-8 and RS-6 zone districts;
- D. Houses of worship in the RS-40, RS-24, RS-16, RS-12, RS-10, RS-8, RS-6, RM-8, RM-6, P-1, P-2, GB-1, GB-2 and GB-3 zone districts;
- E. Public and private non-profit schools in the RS-40, RS-24, RS-16, RS-12, RS-10, RS-8, RS-6 and RM-8 zone districts;
- F. Board of Education administrative office uses in the RS-40, RS-24, RS-16, RS-12, RS-10, RS-8, RS-6 and RM-8 zone districts;



- G. Facilities of non-profit charter membership organizations and the offices of charitable organizations in the RS-40, RS-24, RS-16, RS-12, RS-10, RS-8, RS-6, RM-12, RM-8, RM-6, RM-6D, P-1, P-2, CBD, GB-1, GB-2, GB-3 and C zone districts;
- H. Gasoline filling stations and gasoline service stations in the GB-2, GB-3 and C zone districts;
- I. Public garages in the GB-2, GB-3 and C zone districts;
- J. Automatic car washes and drive-through lubricating establishments in the GB-2 and C zone districts;
- K. Automobile body repair shops and automobile painting facilities in the GB-2 and C zone districts;
- L. Lumber, building material and garden center sales in the C zone district;
- M. Residential type public utility facilities in all of the zone districts;
- N. Industrial type public utility facilities in the O-3 and C zone districts;
- O. Freestanding cellular telecommunications antennas in the O-2, O-3, C and GB-2 zone districts and roof-mounted cellular telecommunications antennas in the RM-12, RM-8, RM-6, RM-6D, RA-1, RA-2, RA-3, RA-4, RA-5A, RA-5B, P-1, P-2, O-1, O-2, O-3, C, GB-1, GB-2, GB-3 and C zone districts;
- P. Any use within the flood plain which is also a permitted use within the zone district for that location;
- Q. Age-restricted multi-family housing on the ground floor in the CBD zone district; and
- R. Boarding houses in the RM-12, RM-8, RM-6, RM-6D, P-1, P-2, and GB-3 zone districts.

**SECTION XI.** Article 18, “Conditional Uses,” of Chapter LUL, “Land Use Ordinance,” of the Town Code shall be and is hereby amended as follows:

#### **§ 18.23 Boarding Houses**

Boarding houses are permitted in the RM-12, RM-8, RM-6, RM-6D, P-1, P-2, and GB-3 zone districts only if all the following requirements are complied with:

- A. Single-family residences and two-family residences used as boarding houses, and any unit used as a boarding house in a multi-family residence, may not subdivide existing rooms.
- B. All boarding houses shall be owner-occupied, and the boarding house must be the primary residence of the owner.
- C. Exterior signage shall not be permitted.
- D. Applicants must adhere to the application process set forth in Chapter 38.

**SECTION XII.** The Town Code shall be and is hereby amended to establish a new Chapter thereof, to be known as Chapter 40, entitled “Rooming and Boarding Houses,” as follows:

#### **§ 40-1 Purpose**

The purpose of this chapter is to license rooming and boarding houses, as authorized by N.J.S.A. 55:13B-1, as amended.

## **§ 40-2. Definitions**

As used in this chapter, the following terms shall have the meanings indicated:

**LICENSING AUTHORITY** — The Rooming and Boarding House Site Licensing Board.

**OPERATOR** — Any person, including for the purposes of this chapter any corporation or association of persons and any agency or instrumentality of state or local government, which operates or proposes to operate a rooming or boarding house.

**OWNER** — The holder of title in fee simple to premises and any lessor or sublessor of whom an operator is, or proposes to become, a sublessor in connection with an application for a license or for renewal thereof, pursuant to this act.

**ROOMING or BOARDING HOUSE** — Reference is made to the definition of “Boarding House” as stated in Chapter 2, the Land Use Law, Article 2.05(I).

## **§ 40-3. Licensing Requirement**

No rooming or boarding house shall hereafter be located or operated except upon premises licensed for that purpose by the licensing authority.

## **§ 40-4. Application for License**

- A. Application for a license shall be made by the owner and filed with the Municipal Clerk. The application shall be in such form and shall contain such information as is authorized by the enabling legislation and shall be accompanied by an application fee of \$200 or such fee as may be prescribed by resolution of the licensing authority. The licensing authority shall require the submission of such information and supporting documentation, as to provide a basis upon which the licensing authority may conduct an investigation and reach the conclusions required under the enabling legislation for the issuance or denial of a license. Such documentation shall include a floor plan containing dimensions of all rooms within the proposed boarding house. The licensing authority shall require that information required from the operator be duly sworn to by the operator in order to form a valid part of the application.
- B. An application filed pursuant to Subsection A of this section shall include a deposit in full of the prescribed application fee, of which 90% shall be refunded if the application is denied and 10% retained and employed in defraying the expenses of the licensing authority in carrying out its functions under this chapter.
- C. All applications by a natural person, partnership or unincorporated association of natural persons shall be duly sworn to by each of the applicants. An application by a corporation shall be duly sworn to by the president or vice president of the corporation. All statements in an application shall be deemed material, and any person who knowingly misstates any material fact therein shall be guilty of a crime of the fourth degree.
- D. Every applicant for a license shall, after filing the application, cause notice of the pendency of the application to be published in a form prescribed by the licensing authority once a week for two weeks successively in a newspaper printed in the English language, published and circulated in Union County. The notice shall include the time and place of the public hearing prescribed in § 40-6 of this chapter, and the second publication thereof shall be made not less than one week, nor more than two weeks, prior to the date set by the licensing authority for that hearing.

- E. No license shall be issued which would result in increasing the total number of persons authorized to be residents in rooming or boarding houses within the municipality to more than 100 in the Town of Westfield, which presently has a population of 20,000 or more. Nothing in this subsection shall warrant refusal of a license or license renewal for premises where a rooming or boarding house has been in lawful operation prior to the enactment of this chapter.
- F. No license shall be issued for premises when any part of the boundary line of the premises is within 1,000 feet of the boundary line of any other premises for which a license is in force. Nothing in this subsection shall warrant refusal of a license or license renewal for premises where a rooming or boarding house has been in lawful operation prior to the enactment of this chapter.

**§ 40-5. Investigation of Premises, Owners, and Operators**

It shall be the duty of the licensing authority to receive applications made pursuant to § 40-4 of this chapter and to conduct such investigations as may be necessary to establish:

- A. With respect to the premises for which a license is sought: (1) that they are in compliance with all applicable building, housing, health and safety codes, and other regulations; (2) that the location of the premises will not, in conjunction with the proximity of other rooming and boarding houses, lead to an excessive concentration of such facilities in the municipality or a particular section thereof.
- B. With respect to the owner or owners of the premises: (1) if a natural person or persons, that he or they are 21 years of age or older, citizens of the United States and residents of the State of New Jersey and never convicted, in this state or elsewhere of a crime involving moral turpitude, or of any crime under any law of this state licensing or regulating a rooming or boarding house and have never had a license required pursuant to, N.J.S.A., 55:13B-1, et al.) revoked; (2) if a corporation, that all officers and members of the board of directors and every stockholder holding 10% or more of the stock of the corporation, directly or indirectly having a beneficial interest therein, have the same qualifications, as set forth in this subsection for an applicant, who is a natural person.
- C. With respect to the operator or proposed operator, that he or she meets the requirements for licensure by the Department of Community Affairs.
- D. That the owner and operator, either individually or jointly, have established sufficient guarantee of financial and other responsibility to assure appropriate relocation of the residents of the rooming or boarding house to suitable facilities in the event that the license is subsequently revoked or its renewal denied. The Department of Community Affairs shall determine, in the case of each type of rooming and boarding house under its jurisdiction, what constitutes suitable facilities for this purpose.

**§ 40-7. Term of License; Application for Renewal**

- A. After the public hearing, pursuant to § 40-6 of this chapter, the licensing authority shall determine, in accordance with the requirements hereunder, whether to grant the license. A license, when issued, shall be valid for one year from the date of issuance and until such time as the licensing authority has acted upon an application for renewal, unless sooner terminated by revocation pursuant to the terms of this chapter.
- B. Not later than the 60th day preceding the anniversary date of issuance, the holder of a license shall make application to the licensing authority for its renewal. Application for a

renewal shall follow the same procedure and requirements as prescribed for a new application and shall necessitate de novo consideration and determination by the licensing authority in the same manner as a new application.

**§ 40-8. Revocation of License**

A. The licensing authority may revoke a license granted under this chapter for any of the following reasons:

- (1) A finding that there was any misstatement of material fact in the application upon which the license was issued.
- (2) The occurrence of any fact which, had it occurred and been known to the licensing authority before issuance of the license, would have resulted in the denial of the application.
- (3) Repeated violations or prolonged failure to correct any violation of any applicable building, housing, health or safety code or regulations.
- (4) Refusal to allow access to any portion of the licensed premises at all reasonable times, with or without advance notice, in order that officers or agents of the licensing authority or any official charged with enforcement within the municipality of any building, housing, health or safety code or regulations applicable to the premises, may determine compliance with such codes or regulations.
- (5) Revocation by the Department of Community Affairs of the operator's license or other authorization to operate a rooming or boarding house on the premises.
- (6) Notification by the Department of community Affairs that the premises are not or are no longer suitable for operation of a rooming or boarding house on the premises.
- (7) Failure or refusal to comply with any lawful regulation or order of the licensing authority.

B. A license shall not be revoked until five days' prior notice of the grounds therefore has been served upon the licensee, either personally or by certified mail, addressed to the licensee at the licensed premises, and a reasonable opportunity given to the licensee to be heard thereon.

**§ 40-9. Appeal**

Upon determination by the licensing authority to refuse the granting or renewal of a license or to revoke a license, the licensee affected shall be entitled to appeal to the Commissioner of Community Affairs for a review of that determination; and the Commissioner shall have authority to reverse the licensing authority's determination if it concludes that the application was improperly denied or the revocation improperly imposed. Such review by the Commissioner shall be in conformity with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1, et seq. The decision of the Commissioner in such cases shall be subject to appeal to the Appellate Division of the Superior Court. If an applicant for license renewal has made timely and sufficient application for a renewal, in accordance with the provisions of this chapter and the rules of licensing pursuant thereto, his license shall not expire until any appeals under this section have been finally determined and disposed of.

**SECTION XIII.** Article III, "Town Boards and Commissions," within Chapter II, "Administration," of the Town Code shall be and is hereby amended and supplemented to establish a new Division thereof, to be known as Division 10, entitled "Rooming and Boarding House Site Licensing Board," as follows:

## **Division 10. Rooming and Boarding House Site Licensing Board.**

### **Sec. 2-45 Establishment.**

The Town of Westfield Rooming and Boarding House Site Licensing Board is hereby established within the Town, pursuant to N.J.S.A. 40:52-10, et seq.

### **Sec. 2-46 Purpose.**

The purpose of the Rooming and Boarding House Site Licensing Board is to review and consider applications for licensing of rooming and boarding houses.

### **Sec. 2-47 Composition.**

The Rooming and Boarding House Site Licensing Board shall be composed of three (3) members, no more than two (2) of whom may be of the same political party to be appointed by resolution of the Mayor and Town Council. Members shall serve for terms of three (3) years and until their successors are appointed and qualified into office, except that of the initial three (3) appointments, one shall be for a term of one (1) year and one for a term of two (2) years. Members of the Town Council shall be eligible for appointment to the board. Members of the board shall receive no salaries but shall be entitled to reimbursement for actual expenses necessarily incurred in the performance of their duties as members. Members may be removed by the appointing authority for cause. They shall not be subject to the provisions of Title 11A, "Civil Service," of the New Jersey Statutes.

### **Sec. 2-50 Rules of Procedure; Meetings.**

The Rooming and Boarding House Site Licensing Board shall establish Rules of Procedure, which shall be submitted to the Mayor and Council for adoption by Resolution. Once adopted, the Rules of Procedure shall be filed with the Town Clerk.

The Rooming and Boarding House Site Licensing Board shall meet on an as-needed basis. There shall be a quorum required to act at board meetings, which is a majority of the full, regular members of the board.

All Rooming and Boarding House Site Licensing Board meetings shall be subject to the New Jersey Open Public Meetings Act, including the requirement of posting and notification of all meetings. Minutes of all meetings shall be maintained, and board approved minutes shall be submitted to the Town Clerk for appropriate record keeping.

### **Sec. 2-51 Powers and Duties.**

In carrying out its functions and duties, the Rooming and Boarding House Site Licensing Board shall be entitled to call to its assistance and avail itself of personnel and facilities of the municipal government as it may require and as may be made available to it for that purpose.

The Rooming and Boarding House Site Licensing Board shall have all powers and duties not specifically stated herein that are granted to it under N.J.S.A. 40:52-10, et seq.

**SECTION XIV.** All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

**SECTION XV.** If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

**SECTION XVI.** This Ordinance shall take effect after passage and publication in the manner provided by law.

**TOWN OF WESTFIELD  
WESTFIELD, NEW JERSEY**

**GENERAL ORDINANCE NO. 2178**

**AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWN  
OF WESTFIELD, NEW JERSEY, RELATING TO SOLAR ENERGY SYSTEMS**

**WHEREAS**, by Ordinance 2063, adopted by the Town Council on July 12, 2016, the Mayor and Town Council of the Town of Westfield (the “Town”) adopted certain regulations related to the erection and operation of solar energy systems in all zone districts in the Town of Westfield; and

**WHEREAS**, the Mayor and Town Council deem it necessary and appropriate to make certain changes and additions to that ordinance, both in order to encourage clean energy uses in the Town of Westfield, and to reduce the visual impacts of solar energy systems throughout the Town;

**NOW, THEREFORE, BE IT RESOLVED**, as follows:

**SECTION I.** Section 13-07, Chapter 13, of the Land Use Ordinance of the Town of Westfield, shall and is hereby amended as follows:

- A. Intent. The purpose of this section is to provide a regulatory framework for the construction and operation of solar energy systems in the Town of Westfield, subject to reasonable restrictions, which will preserve the public health, safety, and welfare, while also minimizing the visual impact of solar energy systems and maintaining the character of the Town of Westfield. This section permits, as an accessory use, solar energy systems in all zone districts in the Town of Westfield, subject to the criteria set forth in this section.
- B. Definitions.
  - 1. **BUILDING-INTEGRATED SOLAR ENERGY SYSTEMS** — A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems shall include photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, and skylights.
  - 2. **FLUSH-MOUNTED**— A Solar energy system or solar panel which is installed no greater than six inches from the roof and is installed at the same angle as the roof surface.
  - 3. **CHARACTER-DEFINING ROOF FEATURES** – Visual aspects and physical elements of a roof that contribute to the overall appearance of a building. Examples of

character-defining roof features include cornices, dormers, towers, finials, and cresting.

4. GROUND MOUNTED SOLAR ENERGY SYSTEM — Systems which are not mounted on existing structures.
  5. PUBLIC VIEW — The view by the public of a building from any point on a street or walkway which is used as a public thoroughfare, either vehicular or pedestrian.
  6. ROOF MOUNTED SOLAR ENERGY SYSTEM — A solar energy system consisting of solar collectors that are installed directly on the roof of a home, commercial building, and/or an accessory structure, such as a garage, pergola, and/or shed.
  7. SOLAR COLLECTOR — A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical or electrical energy.
  8. SOLAR COLLECTOR SURFACE — Any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. Collector surface does not include frames, supports and mounting hardware.
  9. SOLAR ENERGY — Radiant energy received from the sun at wavelengths suitable for conversion into thermal or electrical energy.
  10. SOLAR ENERGY SYSTEM — Any solar collector or other solar energy device, or any structural design feature, mounted on a building or on the ground, and whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, for water heating, or for electricity.
  11. SOLAR MOUNTING DEVICE — Racking, frames or other devices that allow the mounting of a solar collector onto a roof surface or the ground.
  12. STREET FACING FACADE — Any building wall along a front yard or street side yard.
  13. STREET FACING ROOF PLANE — A roof plane or planes which is/are located between the roof ridge and street facing facade or facades of a building.
- C. Applicability. This section applies to solar energy systems to be installed and constructed after the effective date of the ordinance. Solar energy systems constructed prior to the effective date of this ordinance shall not be required to meet the requirement of this section, provided however, that any upgrades, modifications, or changes that alter the size or placement of existing solar energy systems shall comply with the provisions of this section.
- D. Permitted accessory use. Solar energy systems shall be allowed as an accessory use in all zone districts, subject to the requirements set forth within this section.
- E. General regulations.



1. Height.

- a. Roof-mounted solar energy systems shall not exceed the maximum permitted height in the zone district for the structure or building on which they are mounted.
  - (1) For roof-mounted solar energy systems installed on a sloped roof, the system must be flush mounted. In no instance shall it extend above the ridge of a peaked roof.
  - (2) For roof-mounted solar energy systems installed on a flat roof, the highest point of the system shall be permitted to extend up to six feet above the roof to which it is attached.
- b. Ground-mounted solar energy systems shall not exceed four feet in height.

2. Setbacks and location.

- a. Roof-mounted solar energy systems shall not extend horizontally past existing rooflines. Exterior piping associated with the roof-mounted solar energy system shall be allowed to extend beyond the perimeter of the building on any facade of an accessory structure, and on all but any street-facing facade or roof plane of a principal structure.
- b. Ground-mounted solar energy systems shall be located in the rear yard only and shall meet the setback requirements set forth in § 13.01G.
- c. Wall-mounted solar energy systems shall meet the required setbacks for the structure onto which they are mounted.
- d. Street-facing Solar energy systems.
  - (1) Solar energy systems may be located on street-facing roof planes or street-facing facades and shall comply with the following in addition to the above requirements:
    - (i) The applicant presents the certification of a professional engineer or other individual deemed qualified by the Zoning Officer that no other solar energy system array on the property, other than a front-facing solar array, will generate an average of 1 kilowatt-hour of electricity per day over a 365-day year; and
    - (ii) The solar panels must be flush mounted to the roof; and
    - (iii) The solar energy system does not interfere with character-defining roof features; and
    - (iv) The color of any solar collector or solar collector device, trim and any visible mounting hardware must closely match the color of adjacent roofing material; and

- (v) No wiring, cables, conduit, etc., may travel from the front-facing roof to any front façade of the structure.
  - (2) The requirements (i) through (v) above shall also apply to the side street of a corner lot; however, these requirements shall not apply to solar energy systems mounted on accessory structures located within rear yard areas, nor shall they apply to building integrated solar energy systems.
  - (3) An applicant may appeal a denial of the Building Department to allow solar panels on a street-facing roof or facade to the Zoning Board of Adjustment.
  - (4) No street facing solar energy system may be located on street-facing roof planes or street-facing facades on any principal or accessory structure that has been designated, pursuant to the Historic Designation and Preservation Ordinance of the Town of Westfield, LUL Appendix III, as a historic landmark or is within a historic district
- 3. Coverage. Ground-mounted solar energy systems shall be subject to the coverage requirements in 13.01H.
- 4. Visibility. It is the intent of this section to reduce the visual impacts of solar collectors and solar mounting devices.
  - a. Solar collectors mounted on flat roofs shall be mounted behind a building parapet below the line of sight from the nearest edge of the right-of-way(s) adjacent to front- and street-side yards (see Illustration No. 1).

Illustration No. 1

- 5. Glare.
  - a. Solar collectors shall be oriented and/or screened so that any glare is directed away from any adjoining properties and streets.
  - b. All solar collectors shall be located so as to not create any additional heat load upon adjoining properties.
- 6. Prohibition of advertising. A solar energy system shall not be used to display permanent or temporary advertising, including signage, streamers, pennants, spinners, reflectors, banners, or similar materials.
- F. Additional submission requirements. In addition to the application requirements in all applicable construction codes and the Town Land Use Ordinance, all applications for solar energy systems shall be accompanied by a property survey showing the proposed location

or locations of the solar energy system and distance from property lines. In addition, photographs showing the property from the public view, and the location of the proposed solar energy system, must be submitted so as to determine compliance with the visibility and other provisions of this ordinance.

- G. Right to require removal. The Town of Westfield expressly reserves the right to require the removal of any solar energy system, or portion thereof, which is improperly constructed or maintained or which poses an imminent safety hazard.

**SECTION III.** All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

**SECTION IV.** If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

**SECTION V.** This Ordinance shall take effect after passage and publication in the manner provided by law.

**TOWN OF WESTFIELD  
WESTFIELD, NEW JERSEY  
GENERAL ORDINANCE NO. 2179**

**AN ORDINANCE ESTABLISHING  
A HISTORIC PRESERVATION COMMISSION AND PROVIDING FOR THE  
DESIGNATION AND PRESERVATION OF HISTORIC DISTRICTS AND  
HISTORIC LANDMARKS IN THE TOWN OF WESTFIELD**

**§ 1. SHORT TITLE AND INDEX.**

**A.** Title. This ordinance shall be known as and may be cited as "Historic Designation and Preservation Ordinance of the Town of Westfield."

**B.** Index.

Short Title and Index  
Findings, Purposes, and Policy  
Definitions  
Historic Preservation Commission  
Designation of Landmarks & Historic Districts  
Certification of Appropriateness  
Procedures for Filing an Application  
Standards of Consideration  
Effect of Certificate of Appropriateness Approval, Denial, Appeal  
Special Requirements for Demolition  
Penalties  
Preventive Maintenance  
Permit Review  
Designated Historic Landmarks  
Designated Historic Districts

**§ 2. FINDINGS, PURPOSE, AND POLICY.**

**A.** The Town Council of the Town of Westfield finds and determines as follows:

1. The historical, cultural, architectural, and social heritage of the Town of Westfield is given in trust from generation to generation to be used, enriched, and then passed on;
2. The character, lifestyle, and very quality of life in the Town of Westfield depend in great measure upon the Town protecting this heritage of the past;
3. The ongoing presence of historic districts and landmarks, as an essential element of municipal character and identity, is an important factor in the economy of the municipality and the property values therein;
4. Such historic districts and landmarks are vital to the education and civic-mindedness of the Town's young people;
5. A number of critical factors such as deterioration, demolition, redevelopment, and re-subdivision threaten such landmarks and districts; and

6. The welfare of the municipality is enhanced by the preservation of its historic heritage for the reasons set forth above.
  7. The New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-65.1 permits municipalities to adopt a zoning ordinance that designates and regulates historic landmarks or historic districts and provides design criteria and guidelines therefor.
- B.** It is therefore determined that there is a special public interest in the preservation of this heritage which requires the designation and regulation of historic districts and historic landmarks as provided in this ordinance, which public interest has been recognized by the State of New Jersey in N.J.S.A. 40:55D-2(j) and N.J.S.A. 40:55D-65(i).
- C.** In adopting this ordinance, it is the intention of the Town Council to designate and regulate historic landmarks and historic districts within the Town consistent with and pursuant to authority granted under the New Jersey Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-1 et seq. In accordance with provisions therein (N.J.S.A. 40:55D-107), this ordinance provides for creation of an agency that can assist the Town in establishing a system of preventive regulation, based on a rational plan and objective, which will complement existing land use and construction code legislation. The controls herein established are compatible with the New Jersey State Uniform Construction Code (N.J.A.C. 5:23) and are responsive to the Historic Preservation Plan Element of the Town of Westfield Master Plan and the applicable provisions of the MLUL, including but not limited to N.J.S.A. 40:55D-2(j), 40:55D-28(b)(10), 40:55D-65(i), 40:55D-65.1, and 40:55D-107 through -112.
- D.** Nothing contained herein shall supersede the powers of other local legislative or regulatory bodies or relieve any property owner of complying with requirements of any other state statutes or municipal ordinances or regulations.
- E.** In the event of any inconsistency, ambiguity, and/or overlapping of requirements promulgated by the municipality, the more restrictive shall apply.
- F.** This ordinance should not be construed as requiring or prohibiting the use of any particular architectural style; rather, the purpose is to preserve the past by making it compatible with and relevant to the present. To that end, new construction on a landmark or in a historic district should not necessarily duplicate the style of the landmark or historic district; it should simply be compatible with, and not detract from the landmark or historic district.

### **§ 3. DEFINITIONS.**

For the purpose of this ordinance and unless the context clearly indicated otherwise, the following words and phrases shall have the meanings ascribed to them by this section. Otherwise, words and phrases in this ordinance shall have the meanings set forth under Article 2 of the Land Use Ordinance of the Town of Westfield.

- A.** Addition. Any construction on any building located on a historic landmark or within a historic district.
- B.** Administrative Officer. The Town Planner, and in the case of such action required by them, the Zoning Officer, or Construction Official. or any other official of the Town of Westfield, as

applicable, who is authorized and required as a component of his/her job description and employment to accept, review, and act on permit applications in accordance with the ordinances and regulations of the Town.

C. Alteration. Any work done on any improvement which:

1. is not an addition to the improvement; and
  2. changes the appearance of the exterior surface of any improvement.
- D. Building. Any structure created to shelter human activity; examples would include, but not be limited to, houses, barns, schools, railroad stations, theaters, and factories.

E. Demolition. The partial or total razing, dismantling, or destruction, whether entirely or in significant part, of any building, structure, object, or landmark. "Demolition" includes the removal of a building, structure, or object from its landmark or the removal or destruction of the facade or surface.

F. Facade. The exterior elevation of a building as viewed from any single vantage point. The facade shall include the entirety of the building wall or walls making up the elevation, as well as any parapets, fascia, windows, doors, canopies, decorative features, and roof structures.

G. Historic District.

1. A geographically definable area of historic landmarks that are linked historically or aesthetically by plans or physical development and acknowledged to possess collective importance.
2. A historic district may also consist of a definable group of tax map lots, the improvements on which when viewed collectively:
  - a. represent a significant period or periods in the architectural and social history of the municipality;
  - b. because of their unique character can readily be viewed as an area or neighborhood distinct from surrounding portions of the municipality; or
  - c. have a unique character resulting from their architectural style.

Except as otherwise stated, all references to landmarks in this ordinance shall be deemed to include historic districts as well.

H. Historic Preservation Commission Application Subcommittee. (HPC Application Subcommittee). The HPC Chairperson and 2 other Commission members previously designated by the HPC Chairperson.

I. Historic Landmark. Any real property, man-made structure, natural object, configuration, or any portion or group of the foregoing which have been formally designated on the Zoning Map of the Town of Westfield as being of historical, archeological, cultural, scenic, or architectural significance which:

1. is of particular historic, cultural, scenic, or architectural significance to the Town of Westfield and in which the broad cultural, political, economic, or social history, state or community is reflected or exemplified;

2. is identified with historic personages or with important events in the main current of national, state, or local history;
3. shows evidence of habitation, activity, or the culture of prehistoric man;
4. embodies a distinguishing characteristic or an architectural type valuable as representative of a period, style, or method of construction;
5. represents a work of a builder, designer, artist, or architect whose individual style significantly influenced the architectural history of the municipality; or
6. is imbued with traditional or legendary lore.

A historic landmark can include a building, structure, or site.

All landmarks shall specifically be identified within the historic preservation plan element of the Town Master Plan as recognized by the provisions of N.J.S.A. 40-55D-28(b)(10).

The designation of a landmark shall be deemed to include the lot or lots on which it is located.

- J.** Improvement. Any structure or part thereof constructed or installed upon real property by human endeavor and intended to be kept at the location of such construction or installation for a period of not less than sixty (60) continuous days.

**K.** Minor application. Any application for a certificate of appropriateness which:

1. Does not involve demolition, relocation, or removal of a historic landmark or a key or “contributing property” in a historic district; or
2. Does not involve an addition to a historic landmark or property in a historic district or new construction in a historic district; or
3. Is a request for approval of fences, signs, awnings, lighting, which, in the opinion of the HPC Application Committee, will not substantially affect the characteristics of the historic landmark or the historic district; or
4. Is a request for a field change (i.e., those changes made in the field which are necessitated by job conditions in the field having no material design ramifications not constituting discretionary scope changes) in circumstances in which a certificate of appropriateness has already been issued, and such field change which, in the opinion of the Chair of the Commission or his/her designee, does not affect the architectural significance of the historic landmark or district; or
5. Does not involve a change to the roofline of any building on a historic landmark; or
6. Involves 10% or less of the facade of any building on a historic landmark.

**L.** Major application. Any application for a certificate of appropriateness which is not a minor application, as defined above. Notwithstanding this definition and the definition of “Minor Application” as set forth above, any application which involves the subdivision of a historic landmark by the Planning or Zoning Boards, or any individual property within a historic district, shall be deemed to be a major application.

M. Object. A material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

N. Reconstruction. The act or process of reproducing by new construction the exact form, material, and details of a vanished building, structure, or object or part thereof, as it appeared at a specific period of time.

O. Rehabilitation. The act or process of returning the exterior of an improvement to a state of utility through repair of alteration which makes possible an efficient contemporary use while preserving those portions or features of the improvement which are significant to historical, architectural and cultural values.

P. Repair. Work done on any improvement which:

1. is not an addition to the improvement; and
2. does not change facade of any improvement.

Q. Replacement. A repair that changes the façade of any structure or improvement.

R. Restoration. The act or process of accurately recovering the form and details of the exterior of an improvement by means of the removal of later work or by the reconstruction of missing earlier work.

S. Site. The location of a significant event, prehistoric, or historic activity, or remnant of a building or structure such as a battlefield, landscape, or the ruins of a building or structure.

T. Structure. Any construction other than a building; examples would include bridges, lighthouses, water towers, well house, tunnels, and civil engineering structures such as a canal.

#### **§ 4. HISTORIC PRESERVATION COMMISSION.**

A. Establishment. There is hereby established a commission, pursuant to N.J.S.A. 40:55D-107, which shall be known as the Historic Preservation Commission. Among other powers and responsibilities, this Commission is hereby given, pursuant to N.J.S.A. 40:55D-109(e), authority to grant or deny approvals for certificate of appropriateness under Section 6.0 hereof.

B. Membership. The Commission shall consist of nine (9) regular members consisting of the following classes, and two (2) alternates as set forth below:

1. Class A. Two (2) persons who are knowledgeable in building design and construction or architectural history, not more than one of whom may reside outside of Westfield.
2. Class B. Two (2) persons who are knowledgeable or have a demonstrated interest in local history, not more than one of whom may reside outside of Westfield.
3. Class C. Five (5) persons who shall be citizens of the municipality who shall hold no other municipal office, position or employment, with the permitted exception of membership on the Planning Board or Zoning Board of Adjustment.



4. Alternates. There shall be two (2) alternate members, designated as "Alternate No. 1" and "Alternate No. 2," who shall meet the qualifications of Class C members. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

Town Historian. The Town Historian shall be one of those persons appointed as a Class A or Class B member.

5. Planning Board Member. At least one (1) regular member of the Commission, whether qualified as a Class A, B, or C member, shall be a member of the Planning Board. The Planning Board member shall be a regular voting member of the Commission.
6. All Commission members shall have demonstrated interest, competence, and/or knowledge in historic preservation.
7. To the maximum extent feasible, the Commission shall include members from the disciplines of planning, architecture, landscape architecture, history, architectural history, historic architecture, and archaeology who meet the professional qualifications set forth by the State Historic Preservation Office for New Jersey Certified Local Governments.

C.Appointment; terms; vacancies; removal of members. All members shall be appointed by the Mayor with the concurrence of the Town Council, except that the designated Planning Board member shall be appointed by the Chairperson of the Planning Board. Members shall serve for the following terms:

1. Regular members shall serve for four (4) year terms.
2. Alternate members shall serve a term of two (2) years.
3. Notwithstanding any other provision herein, the term of any member common to the Historic Preservation Commission and the Planning Board or Zoning Board of Adjustment shall be contemporaneous with his or her term of membership on the Planning Board or Zoning Board of Adjustment.
4. Vacancies shall be filled in the same manner by which the previous incumbent was appointed, and such appointee shall serve only for the balance of such incumbent's unexpired term.
5. Any member of the Commission may, after public hearing if he or she requests it, be removed by the Town Council for cause. Missing three or more meetings in any calendar year may be deemed cause for removal.
6. Commission members and alternate members shall receive no compensation.

D. Officers and staff.

1. The Commission shall elect from its regular members a Chairperson and a Vice Chairperson.
2. The Commission shall appoint a Secretary who need not be a member of the Commission.
3. The Commission shall utilize the Town Attorney as its counsel. The Commission shall have the power to hire outside counsel as needed.
4. The Mayor shall designate a member of the Town Council to act as a liaison between the Historic Preservation Commission and the Council. The Town Council liaison shall not be a voting member of the Commission.
5. Within the limits of funds appropriated by the Town Council for the performance of its work, and any grants or gifts provided through other sources, the Commission may obtain the services of qualified persons to direct, advise, and assist the Commission and may obtain the equipment, supplies, and other material necessary to its effective operation.
6. The Commission is empowered to seek advisory opinions and technical assistance from all municipal employees on any matter within the Commission's jurisdiction.

E. Rules and procedures. The Commission shall adopt written by-laws or rules of procedures applicable to the conduct of its business, which shall be available to the public, and which are subject to the following:

1. All meetings shall comply with the Open Public Meetings Act (N.J.S.A. 10:4-6 et. seq.).
2. The Secretary shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations, and decisions. All material shall be public record and copies of same shall be provided to the Town Clerk.
3. A quorum for the transaction of business shall consist of five (5) of the Commission's members including the Chairperson, or in his or her absence, the Vice Chairperson.
4. No Commission member may act on any matter in which s/he has, either directly or indirectly, any personal or financial interest.
5. Alternate members may participate in discussions but may not vote except in the absence or disqualification of a regular member.
6. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

7. A simple majority of affirmative votes is required to grant a certificate of appropriateness. If a certificate of appropriateness is not granted when voted on by the Commission, it shall be considered denied.

8. All actions to grant, change, or deny a certificate of appropriateness shall be memorialized by formal written resolution containing findings of fact and conclusions which shall be adopted within 45 days as a memorialization after the action has been taken.

9. The Commission shall annually establish a schedule of regular monthly meetings, which shall be noticed and posted in Town Hall in accordance with the Open Public Meetings Act. Additional meetings may be called by the Chairperson or Vice Chairperson, as may be required to fulfill the obligations of the Commission, on notice duly provided in conformance with the Open Public Meetings Act.

F. Powers and duties. The Commission shall have the authority and responsibility to:

1. Adopt and promulgate such rules and procedures not inconsistent with this ordinance as are necessary and proper, for the effective and efficient performance of the duties assigned herein.
2. Survey the Town of Westfield to identify those buildings, structures, sites, objects, improvements, and/or areas that qualify for designation as historic landmarks or historic districts pursuant to the criteria set forth herein.
3. Maintain and update the survey of historic landmarks and districts in the Town of Westfield.
4. Adopt design guidelines for historic landmarks and historic districts.
5. Make recommendations to the Planning Board on the Historic Preservation Plan Element of the Master Plan, particularly regarding the inclusion of historic districts and historic landmarks identified by its survey identifying same, and on the implications for preservation of historic landmarks upon all other elements of the Master Plan.
6. Recommend to the Town Council landmarks and districts that are qualified for historic designation by zoning ordinance amendment in accordance with the criteria and procedures set forth in § 5.0 hereof.
7. Hear and decide applications for certificate of appropriateness pursuant to § 6.0 hereof.
8. Advise the Planning Board and Board of Adjustment on all applications for development pertaining to historic districts, or historic landmarks designated on the zoning map or identified in any component of the Master Plan pursuant to N.J.S.A. 40:55D-110.
9. Review all permit applications, requiring a certificate of appropriateness, and pertaining to historic landmarks or property in historic districts, and provide written

reports to the Administrative Officer (as such term is defined in Section 3.B. hereof) on the application of the provisions of this ordinance to any of those aspects of the change proposed, which were not determined by approval of an application for development by the Planning Board or Zoning Board of Adjustment, pursuant to N.J.S.A. 40:55D-111.

10. Advise the Planning Board on the inclusion of landmarks and historic districts in the capital improvement program.
11. Collect and disseminate material on the importance of historic preservation and techniques for achieving same.
12. Advise all municipal agencies regarding goals and techniques of historic preservation.
13. Advise and assist citizen groups and individuals interested in establishing landmarks and historic districts.
14. Report at least annually to the Planning Board and the Town Council on the state of historic preservation in the municipality and recommend measures to improve same.

## **§ 5. DESIGNATION OF LANDMARKS AND HISTORIC DISTRICTS.**

**A.** Criteria for Designation. In establishing and maintaining its survey of historic landmarks, the Commission shall be guided by the National Register of Historic Places Criteria of Eligibility(36 CFR 60.4) and the criteria set forth in this ordinance. The survey shall be used as a basis for identifying landmarks and districts worthy of designation. The Commission shall consider for designation districts and landmarks that have integrity of location, design, setting, materials, workmanship, and association, and that meet one or more of the following criteria:

1. Character, interest, or value as part of the development, heritage, or cultural characteristics of the Town, State, or Nation;
2. Identification with a person or persons who significantly enriched the Town, State, or Nation;
3. Landmark of a historic event which had significant effect on the development of the Town, State, or Nation;
4. Embodiment of distinguishing characteristics of a type, period, or method of construction, architecture, or engineering;
5. Identification with the work of a builder, designer, artist, architect, or landscape architect whose work has influenced the development of the Town, State, or Nation;
6. Embodiment of elements of design, detail, materials or craftsmanship that render a landmark architecturally significant or structurally innovative;
7. Unique location of singular physical characteristics that make a district or landmark an established or familiar visual feature; and
8. Likely to yield information important in prehistory or history.

**B. Procedures for Designation.** The Commission shall consider designation of a district or a landmark in accordance with the procedures that follow.

1. Designation by the Town. The Commission or the Planning Board ~~shall~~ may nominate for designation by the Town Council such landmarks by a simple majority of affirmative votes, if in the Commission's opinion, the criteria for designation set forth in section 5(a) above are met. Should the Town Council accept the nomination of the Commission to designate a landmark or district, such designation shall be adopted by ordinance as an amendment to the zoning ordinance. For any nomination by the Commission pursuant to this Section 1, the Commission shall prepare a report containing a statement of its recommendations and the reasons therefor with regard to proposed designation. Such report shall be considered and adopted at a duly noticed public meeting of the Commission.

2. Designation Nomination by the Affected Resident(s). For all districts and landmarks other than those designated pursuant to subsection 1 above, proposals to designate a landmark or district as historic pursuant to this article may be made by the verified application of the owner(s) of a landmark, or with respect to a proposed district, by any owner within the proposed district.

a. Nomination proposals. The party or parties proposing a landmark or district for designation under this section may prepare and submit to the Commission a nomination report for each proposed landmark or district. Should a nomination report not be submitted by the party or parties proposing a landmark or district, the Commission or such professional retained by it for that purpose may prepare such a report. For historic district designations, the report shall include a building-by-building inventory of all properties within the district, photographs of representative properties within the district, a property map of the district showing boundaries, and a physical description and statement of significance for the district. For individual landmark designations, the report shall include one or more photographs, the tax lot and block number of the property as designated on the Official Tax Map of the Town and a physical description and statement of significance and proposed utilization of the landmark.

b. Notice. The Commission shall schedule a public hearing on the proposed designation of a landmark or district. At least 20 days prior to the hearing, the Commission shall, by personal service or certified mail:

1. Notify the owner(s) of record of a property that has been proposed for designation or of property within a district that has been proposed for designation that the property is being considered for such designation and the reasons therefor.
2. Advise the owner(s) of record of the significance and consequences of such designation and of the rights of the owner(s) of record to contest such designation under the provisions of this article.

3. Notify the owner(s) of record of the date, time and location of the hearing concerning the proposed designation of the property.

4. Serve any notices further required under the provisions of the Municipal Land Use Law.

c. Public notice of hearing. Public notice of the hearing shall be given at least 20 days prior to the scheduled hearing date by publication in an official newspaper of the Town. A copy of the nomination report shall also be made available for public inspection in the Municipal Clerk's office at least 20 days prior to the hearing.

d. Hearing. At a public hearing scheduled in accordance with this article, the Commission shall review the nomination report and accompanying

documents. Interested persons shall be entitled to comment on the proposed nominations for designation.

1. Commission report. Upon Commission review and public hearing, the Commission shall forward to the Town Council its report, which shall contain a statement of its recommendations and the reasons therefor with regard to proposed designations considered at the hearing, including a list and map of properties approved for designation.

2. Referral to Planning Board. The Town Council shall refer the report to the Planning Board, which in turn shall report to the Town Council as soon as possible, but within 60 days. Failure of the Planning Board to transmit its report within the sixty-day period provided herein shall relieve the Town Council of its obligations relating to the referral of such a report to the Planning Board. Town Council action on landmark or district designations shall be otherwise subject to those procedures and statutes which apply to a change of a zoning designation and the adoption, revision or amendment of any development regulation.

3. Final designation. As soon as possible after its receipt of the report of the Planning Board or the expiration of the period allowed for Planning Board comment on designations pursuant to Subsection B(2)(g) of this section, the Town Council shall act upon the proposed designation list and map and may approve, reject or modify by ordinance the designation recommendations made by the Planning Board or by the Commission, if no comments are made by the Planning Board. In the event that the Town Council votes to reject or modify any Planning Board recommendations for a proposed designation, the Council shall record in its minutes the reasons for not following such recommendation. All action taken by the Council on proposed designations shall become effective upon a favorable vote of a majority of its full authorized membership, except that in cases in which, pursuant to N.J.S.A. 40:55D-63, a written petition signed by the owners of 20% or more of the area either (1) of the lots or land included in such proposed change, or (2) of the lots or land extending 200 feet in all directions therefrom inclusive of street space, whether within or without the municipality, is filed with the Clerk of the Town, the vote of the Town Council shall be by a favorable vote of two-thirds of all the members of the governing body of the municipality.

e. Public notice of designation. Notice of designation shall be made public by publication in the official newspaper of the Town and by distribution to all municipal agencies reviewing development applications and permits. A certificate or letter of designation shall be sent to the owner(s) of record.

f. Incorporation of designated landmarks or districts into Town records. Upon adoption, the designation list and map shall be incorporated by reference into the Master Plan and Zoning Ordinance of the Town as required by the provisions of the Municipal Land Use Law. Designated properties shall also be noted as such on the records for those properties maintained by the offices of the Town's Tax Assessor and the Municipal Clerk.

g. Amendments. Landmark and district designations may be amended in the same manner as they were adopted in accordance with the provisions of this article.

3. Copies of the designation list and map as adopted shall be made public and distributed to all municipal agencies reviewing development applications and all building and housing permits. A certificate of designation shall be provided by certified mail to the owner of each landmark included in the final list, and a true copy thereof shall be filed by the Town of Westfield with the County Recorder of Deeds for recordation in the same manner as certificates of lien upon real property.

4. Each designated historic district or landmark may be marked by an appropriate plaque in such form as the Commission shall promulgate by regulation.

5. Once an improvement has been designated a landmark or incorporated as a historic structure within a historic district, it may only be delisted therefrom by the same process required herein for its designation. If delisted, a certificate to that effect shall also be filed by the Town of Westfield with the County Recorder of Deeds.

6. All historic landmarks and historic districts designated by ordinance shall be based on identification in the Historic Preservation Plan Element of the Master Plan; provided that the Town Council may designate historic landmarks or districts not so identified upon affirmative vote of a majority of its members and provided the reasons for its actions are set forth in a resolution and recorded in its minutes (N.J.S.A. 40:55D-65.1).

7. A protest petition against a proposed historic site or district signed by the owners of twenty percent (20%) or more of the area of either, the lots or land included in the proposed designation, or of the lots or land extending 200 feet in all directions therefrom, inclusive of street space, may be filed with the Town Clerk. In such event, pursuant to N.J.S.A. 40:55D-63, the proposed designation shall become effective only by favorable vote of two-thirds (2/3) of all members of the Town Council.

8. Pursuant to the provisions of N.J.S.A. 40:55D-65.1, the designation and regulation of historic landmarks and historic districts shall be in addition to such designation and regulation as the zoning ordinance may otherwise require. As required by N.J.S.A. 40:55D-65.1, all historic sites and historic districts designated in the zoning ordinance shall be based on identifications in the historic preservation plan element of the master plan. The governing body may, at any time, adopt, by affirmative vote of a majority of its authorized membership, a zoning ordinance designating one or more historic sites or historic districts that are not based on identifications in the historic preservation plan element, the land use plan element or community facilities plan element, provided the reasons for the action of the governing body are set forth in a resolution and recorded in the minutes of the governing body, as contemplated in the procedulres set forth in this section. .

## **§ 6. CERTIFICATION OF APPROPRIATENESS.**

A. Actions requiring a certificate of appropriateness. A certificate of appropriateness issued by the Commission shall be required before the Zoning Officer may issue zoning approval and the Construction Official may issue a permit for any of the following activities on the property of any designated landmark or within any designated historic district:

1. demolition of a historic landmark or of any façade improvement within any historic district;

2. relocation or subdivision of any historic landmark or of any facade improvement within any historic district;

4. changes in the exterior facade of any existing historic landmark or of any improvement within any historic district by addition, alteration, replacement, rehabilitation, restoration, or reconstruction;

5. changes in, or addition of, new signs, fences or exterior lighting, except that no certificate of appropriateness shall be required for one (1) unlit sign per premises if the surface area of such sign does not exceed one (1) square foot for an identification sign, or four (4) square feet for a commercial sign, providing either of same is attached to, and parallel to, a facade of the building or structure;

6. any new construction on a historic landmark or in a historic district visible from the facade; and

7. any change in the exterior facade of any improvement within a historic district which itself does not have historic significance because same is of new construction, or for other reasons. Such change need not comply with the standards of consideration for that district set forth in section 8 below, but any change shall be consistent with the architectural style of the improvement as constructed and shall insofar as practical be compatible with other structures nearby in the district.

**B.** At any time in which the Planning Board or the Board of Adjustment grants approval to an applicant to subdivide a historic site, or a property within a historic district, the Commission shall have an obligation to review and issue a Certificate of Appropriateness for any development on such historic site or within such historic district.

**C.** Exceptions.

1. Interior work, repairs, exact reconstruction. A certificate of appropriateness shall neither be required for changes to the interior spaces of buildings. A certificate of appropriateness shall not be required to change a paint color either in the interior or on the exterior of a building. A certificate of appropriateness shall be not be required for any facade repair that entirely matches the material and appearance of the repaired elements, or exact reconstruction of any existing facade improvement.

2. Emergency repairs. When, in the opinion of the Construction Official, a historic landmark requires immediate emergency repair to preserve the habitability and/or protect the health or safety of its occupants or others, which repair would otherwise require a certificate of appropriateness, temporary emergency repairs may be performed in accordance with Town codes without the necessity of first obtaining Commission review. Under such circumstances, the repairs performed shall only be such as are necessary to maintain the safety and habitability of the structure. No additional work shall be performed upon the structure until or unless the Commission grants a certificate of appropriateness pertaining to such work.

3. Non-Facade Changes. Changes not affecting the exterior elevations of a building shall not require a certificate of appropriateness.



**D. Review of Certificate of Appropriateness Applications.**

1. The Town Planner, in conjunction with the Historic Preservation Application Subcommittee, shall make a determination as to whether or not the application is either a minor or major application. The Town Planner shall in writing, notify all applicants for zoning, building, and/or other permits pertaining to activities requiring a certificate of appropriateness, that such certificate is required prior to the issuance of a permit. A copy of such notice shall be provided to the Historic Preservation Commission. Along with such notice, the Administrative Officer shall provide the applicant with the Commission's application materials and direct him or her to file an application in accordance with the instructions therein, to the Commission.
2. By confirmation from the Commission of receipt of such application, deemed by the Commission Chair, or in absence of the Chair the Vice-Chair, to be complete, and inclusive of a copy of the Town Planner's notice advising the applicant of the need to file, the application shall be considered officially referred to the Commission by the Town Planner. The date on which the Commission deems the application complete shall be deemed the date of referral by the Town Planner.
3. If a certificate of appropriateness is required, the Commission shall, in accordance with N.J.S.A. 40:55D-111, provide a written report at the conclusion of its review of the request for a certificate of appropriateness, which shall describe the application of the provisions of this Ordinance to the activities proposed by the applicant.
4. In the case of an application that requires approval by the Planning Board or Zoning Board of Adjustment, the Commission's review shall be confined to those aspects of the proposal not under the jurisdiction of the reviewing Board.
5. The Commission shall, pursuant to N.J.S.A. 40:55D-111, provide its written report to the applicant and to the Town Planner within 45 days of the Town Planner's referral to the Commission.
6. If, by its report to the Administrative Officer within the 45-day period, the Commission recommends against the issuance of a building permit, the Administrative Officer shall deny issuance of the building permit.
7. If, in the case of any application with respect to a historic district or historic landmark or any landmark listed within the Town's historic preservation plan, the Commission's report filed with the Town Planner recommends against the issuance of a permit, and further recommends referral of the application to the Planning Board for consideration of its reservation under the Board's authority granted pursuant to N.J.S.A. 40:55D-44, the Town Planner shall deny issuance of the 7. permit and so refer the application to the Planning Board along with the Commissioner's recommendations regarding reservation as authorized under N.J.S.A 40:55D-44.
8. If, by its report to the Town Planner within the 45-day period, the Commission recommends that the permit be approved with certain conditions, the Town Planner shall only approve the permit with the conditions as therein recommended.

9. Any Commission recommendation to the Town Planner in favor of permit issuance shall not be construed to relieve the applicant of his/her or its obligation to comply with any and all other applicable laws, ordinances, rules, regulations, or requirements outside of the jurisdiction of the Commission.
  10. Failure of the Commission to report within the 45-day period, as provided at Section 6.D.5, above, shall be deemed to constitute a report in favor of the issuance of the permit, without the inclusion of conditions.
  11. Nothing herein shall prohibit an extension of time by mutual agreement between the applicant and the Commission.
- E. Review of Planning and Zoning Board of Adjustment Applications.
1. The Planning Board and Board of Adjustment shall refer to the Historic Preservation Commission every application for development submitted to either Board for development in historic zoning districts or on historic landmarks designated on the zoning or official map or identified in any component element of the master plan. This referral shall be made when the application for development is deemed complete or is scheduled for a hearing, whichever occurs sooner.
  2. Failure to refer the application as required shall not invalidate any hearing or proceeding. The Historic Preservation Commission may provide its advice, which shall be conveyed through its delegation of one of its members or staff to testify orally at the hearing on the application and to explain any written report which may have been submitted.
  3. Any approval by the Planning Board or Zoning Board of Adjustment shall not relieve the applicant of the requirement to apply to the Commission for a certificate of appropriateness regarding any aspect(s) of the proposed activity not specifically under the jurisdiction of and approved by the reviewing Board.

## **§ 7. PROCEDURES FOR FILING AN APPLICATION.**

- A. All applications for certificate of appropriateness shall be filed with the Town Planner on forms promulgated by the Historic Preservation Commission and shall include all supplemental information as required herein to permit a full and accurate assessment and decision by the Commission in accordance with the review criteria set forth in Section 8 hereof.
- B. Pursuant to Section 8.25 of the Town of Westfield Zoning Ordinance, all certificates of appropriateness issued shall require, as a condition of such approval, that proof be submitted that no taxes or assessments for local improvements are due or delinquent on the property.
- C. Within twenty (20) days of its receipt of an application for a certificate of appropriateness, the Town Planner in conjunction with the Application Subcommittee, shall:
  1. classify the application as a major or minor application in accordance with the definitions provided in Section 3 hereof;
  2. review the application for completeness in accordance with the submission requirements set forth in this Section;

3. notify the applicant, in writing, of such completeness determination; and
4. in the event the application is deemed incomplete, include within such notice, a list of the deficiencies that render the application incomplete and which the applicant must address in order for the application to be complete.

If such notice is not issued to the applicant within twenty (20) days of the Commission's receipt of the application, the application shall be deemed complete upon expiration of the 20-day period.

- D. Such additional information as the applicant or the Commission may find necessary to clearly explain and/or illustrate the project proposal and to assess whether or not a certificate of appropriateness will be issued.
- E. Checklist waivers. The Town Planner shall maintain a checklist of the items necessary to be filed in support of an application, as promulgated by the Commission, which the Commission may modify as it shall deem appropriate. The Commission Chair, or in the absence of the Chair the Vice-Chair, in conjunction with the Application Subcommittee, at the request of an applicant or on its own, may waive submission of one or more required items in appropriate instances, however any request for such waiver(s) by an applicant must accompany the application and shall include a statement of the reasons for such request.
- F. Validity of submittals. Nothing herein shall be construed as diminishing the applicant's obligation to prove entitlement to issuance of a certificate of appropriateness. The Commission may require correction of any information found to be in error in the application and retains authority to require submission of items previously waived for submission, and/or any additional information not specified in the checklist, as may be reasonably required to make a decision upon the application. The application shall not be deemed incomplete for lack of any such additional information or corrections, however.
- G. Submission Requirements, Minor Applications. Minor applications for a certificate of appropriateness shall include, at minimum, the following:
  1. Completed certificate of appropriateness application forms, providing all information therein requested including a detailed description of the project proposal, with the original signature(s) of the owner(s) and/or applicant(s) and date(s) of signature included thereon.
  2. Copy of current property survey prepared by a licensed Land Surveyor including metes and boundary lines, and location and scale of all existing structures and improvements.
  3. Photographs depicting existing building(s), structure(s), and conditions on the subject landmark and on immediately adjacent properties.
  4. Specification of materials to be used in completing the project and proposed colors of exterior finishes.
  5. Sketches or drawings illustrating the project, as proposed.
  6. Copy of the Administrative Officer's notice advising the applicant of the need to file, if such notice was provided to the applicant.

7. Copy of any application approved by the Planning Board or Zoning Board of Adjustment, as applicable, along with the Board's memorializing resolution.

8. Such additional information as the applicant or the Commission may find necessary to clearly explain and/or illustrate the project proposal and to assess whether or not a certificate of appropriateness will be issued.

**H.** Submission Requirements, Major Applications. Major Applications for a certificate of appropriateness shall, in addition to the items required for minor applications listed at §7.E., above, include the following:

1. Scaled drawings prepared by a licensed professional depicting existing and proposed: landmark layout, building elevations, floor plans, roof layout plans, and materials specifications.

2. For new buildings, additions to buildings, and/or those affecting 10% or more of the facade of a building, scaled professional drawings shall include detailed information concerning significant architectural elements, including but not limited to such items as windows, porches, porticos, chimneys, doors, stoops, cornices, and decorative features.

3. For new construction, a streetscape elevation drawn to scale, showing the new structure in the context of neighboring buildings.

4. A written statement or report prepared by a qualified professional (i.e., an individual knowledgeable in historic architecture who is also an architect, landscape architect, planner, architectural historian, or other like professional) discussing the relationship between the project proposal and the standards of review as set forth in Section 8 hereof.

**I.** The applicant shall file one (1) original and one (1) copy of the full application package for purposes of the completeness determination. Upon receipt of notification that the application has been deemed complete, the applicant shall provide eleven (11) additional copies of the full application for review by the members of the Commission.

**J.** Review by Commission.

1. Minor applications. Minor applications may be scheduled for review at the next regularly scheduled meeting of the Commission following notification to the applicant that the application has been deemed complete. No public notice other than that required for the meeting of the Commission pursuant to § 4.E.1 and §4.E.9, hereof, shall be required. The Commission Secretary shall consult with the applicant regarding scheduling. The applicant need not be present for the application to be considered and acted upon, however, should the applicant wish to attend the meeting, every effort shall be made, within the time limits prescribed for Commission action on the application (pursuant to N.J.S.A. 40:55D-111 and Sections 6.C and 7.I, hereof) to accommodate the applicant's schedule.

2. Major applications. Major applications shall be considered and acted upon by the Commission only during the course of a duly-noticed public hearing at which any interested party may ask questions and be heard on the application. The Commission Secretary shall consult with the applicant regarding scheduling of such hearing since the applicant or his/her duly authorized representative must attend such hearing to present and answer questions on the application. The Secretary shall make every effort, within the time limits prescribed for

Commission action on the matter (pursuant to N.J.S.A. 40:55D-111 and Sections 6.C and 7.I, hereof), to accommodate the applicant's schedule.

a. At least ten (10) days prior to the agreed upon hearing date or in the absence of such agreement, the date the Commission sets to conduct a hearing upon the application:

a. 1. The applicant shall provide public notice of the hearing by certified mail or personal service to all the owners of property located within 200 feet of the lot lines of the landmark, and by publication in the official newspaper.

b. 2. Said notice shall include the date, time, place of the hearing, the name of the applicant, the intent and purpose of the hearing, identification by street address and Tax Block and Lot numbering of the lot or lots that are the subject of the hearing, and the business hours and location of the Town Clerk's Office where the application package will be available for public inspection.

c. 3. The applicant shall submit the required additional copies of the full application package required for Commission review pursuant to Section 7.G hereof, to the Commission Secretary or in the event of his/her unavailability to the Town Planner.

b. At least three (3) days prior to the public hearing:

a. 1. The applicant shall provide the Town Planner with an affidavit of proof of service properly acknowledged in accordance with applicable New Jersey law, certifying that all property owners within two hundred (200) feet of the lot lines of the landmark have been sent a notice of the application by personal service or certified mail within the required time frame; and

b. 2. The applicant shall provide the Town Planner with proof of publication of the notice of an application in the official newspaper of the Town of Westfield.

**K.** Time of decision. The Commission shall be guided in its review and decision on any application for a certificate of appropriateness by the standards for review as set forth in Section 8 hereof. The Commission shall render a decision on any application for a certificate of appropriateness within forty-five (45) days of the date on which it is deemed complete and compliance with the notice provisions of Section H hereof; otherwise such applications shall be deemed to have been approved. In the event of a referral by the Town Planner pursuant to Section 6.C, above, the Commission must provide its report to the Town Planner within the same 45-day period, and must therefore schedule such application for a public hearing to allow sufficient time to meet the forty-five (45) day requirement. Nothing herein shall prohibit an extension of time by mutual agreement of the applicant and the Commission.

**L.** Report and resolution.

1. The Commission shall prepare a memorializing resolution on each minor or major application setting forth its findings of fact and conclusions based thereon, which shall be adopted within forty-five (45) days of the date of decision.

2. A copy of the decision shall be mailed by the municipal agency within 10 days of the date of decision to the applicant or, if represented, then to his or her attorney, without separate charge, and to all who request a copy of the decision, for a reasonable fee. A copy of the decision shall also be filed by the municipal agency in the office of the administrative officer. The administrative officer shall make a copy of such filed decision available to any interested party for a reasonable fee and available for public inspection at his or her office during reasonable hours.

3. In the event of a mutually agreed upon extension of the 45-day time period, the Commission Secretary shall, in the case of a referral by the Town Planner, provide a status report on the application to the Officer not later than the 45<sup>th</sup> day after the application has been deemed complete.

**M. Informal review.**

1. Nothing in this Section shall preclude an applicant from requesting an informal review of a concept plan concerning any proposed project affecting a landmark or located within a historic district. The Commission shall provide for such informal review during a regularly scheduled meeting and shall offer its advice, comments, and any recommendations on the basis of the information provided. Neither the applicant nor the Commission shall be bound by an informal review, and an informal review shall not relieve the applicant from the necessity to obtain a certificate of appropriateness, if required.

2. If during the course of an informal review, the Commission determines that the proposed plan is of such an insignificant nature that it will have negligible impact on the historic landmark or district in which it is located; that it clearly complies with the applicable standards of review; that no public hearing is otherwise required pursuant to § 7.H, hereof; and that the information presented is sufficient in and of itself to make such determinations; then it may, by affirmative majority vote, waive the requirement for submission of a formal application for a certificate of appropriateness in accordance with this Section, and forthwith grant a certificate of appropriateness for the project as proposed. The Commission shall return to the Administrative Officer its written report granting or denying the application which report it may be stated in resolution form.

**§ 8. STANDARDS OF CONSIDERATION.**

A. Design Guidelines for Issuance of a Certificate of Appropriateness. In reviewing any application for a Certification of Appropriateness, the Commission shall be guided by the Town of Westfield, New Jersey Design Guidelines for Historic Landmarks and Districts, as published and amended by the Commission from time to time.

B. Demolitions. In regard to any application to demolish a historic landmark or any improvement or any other proposed action set forth in Section 6.A hereof within a historic district, the following matters shall be considered:

1. its historic, architectural, and aesthetic significance;

2. its use, however, this consideration shall not be construed to supersede or interfere in any way with the uses permitted within any zoning district in the Town of Westfield, as set forth by the Land Use Ordinance, or otherwise permitted under the provisions of N.J.S.A. 40:55D-1 et seq;

3. its importance to the municipality and the extent to which its historical or architectural value is such that its removal would be detrimental to the public interest;

5. the extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty;

6. the extent to which its retention would promote the general welfare by maintaining and increasing real estate values; generating business; creating new jobs; attracting tourists, students, writers, historians, artists and artisans; attracting new residents; encouraging study and interest in American history; stimulating interest and study in architecture and design; educating citizens in American culture and heritage; or making the municipality a more attractive and desirable place in which to live;

7. if it is within a historic district, the probable impact of its removal upon the ambience of the historic district; and

8. whether, in the case of a historic landmark, the landmark is of such significance that it would be feasible and appropriate to raise funds through grants, gifts, foundations or other sources to enable its acquisition and preservation by the Town of Westfield or other agency dedicated to historic preservation, and should thus be considered by the Planning Board for reservation for up to a one-year period to enable such acquisition, with appropriate compensation provided to the owner, under the Board's authority granted pursuant to N.J.S.A. 40:55D-44.

C. Relocation out of the Town of Westfield. In regard to an application to move a historic landmark or improvement within a historic district to a location outside the Town of Westfield, the following matters shall be considered along with any other factors the Commission considers relevant:

1. the possible historic loss to the landmark of original location;

2. the reasons for not retaining the landmark or structure at its present landmark;

3. the proximity of the proposed new location to the Town of Westfield, including the accessibility to the residents of the Town of Westfield and other citizens;

4. the probability of significant damage to the landmark or structure itself during relocation; and

5. the applicable matters listed in § 8.A.

D. Relocation within the municipality. In regard to an application

to move a building located on a historic landmark, or any improvements in a historic district, to a new location within the Town of Westfield, the following matters shall be considered in addition to the factors listed in § 8.B:

1. the compatibility, nature and character of the current and of the proposed surrounding areas as they relate to the intent and purposes of this ordinance; and
2. if the proposed new location is within a historic district, the visual compatibility factors as set forth in § 8.E. hereof.

E. Subdivisions, Landmark Plans, Variances. Notwithstanding the provisions of the Land Use Ordinance applicable to subdivisions, a designated historic landmark shall be subdivided only when:

1. the proposed subdivision would not adversely impact the architectural or historic character of the structure or structures on the designated historic landmark, its surrounding grounds, or the designated historic district in which it is located; or
2. the reviewing Board finds that any adverse impact to the landmark or district resulting from the subdivision, will be satisfactorily mitigated by the imposition of conditions upon any approval requiring that specific measures be taken such as, but not limited to, installation of screening, buffering, and/or landscaping.

These standards shall not be considered satisfied merely because subdivision and development of the property may be more profitable than the existing lot configuration. If a subdivision requires one or more variances from the zoning regulations, the decision on such variance request(s) shall give specific consideration to the historic preservation standards of this Ordinance.

Consistent with the intent and purpose of the MLUL, this Chapter, and the Land Use Ordinance of the Town of Westfield, the Commission may recommend to the reviewing Board that a historically designated landmark may not be subdivided, and, provided that the application does otherwise conform with the zoning ordinance and/or the application provisions of the site plan ordinance, the reviewing board may rely on such a determination in order to deny any subdivision of a historic landmark. If a subdivision is approved consistent with these provisions, all new construction on any resulting lot shall be subject to the requirements of § 8.E., F., G., and H., below. All lots retain their original historic designation. All powers exercised pursuant to this subsection shall be within the jurisdiction of the Planning Board or Zoning Board of Adjustment, as applicable under the provisions of the N.J.S.A. 40:55D-1 et seq.

F. Visual compatibility considered for new construction, additions, removals, or rehabilitations. In regard to an application to move a landmark or improvement into, or to construct a new structure or add to, alter or rehabilitate an existing improvement within a historic district, or a landmark, the visual compatibility of the proposed improvement with the structures and surroundings to which it would be visually related shall be considered in terms of the visual compatibility factors as set forth in § 8.H. hereof.

G. Consideration on other actions. In regard to an application for approval of any proposed action set forth in § 6 hereof, the following matters shall be considered:

1. If a historic landmark or an improvement in a historic district is involved:



- a. the impact of the proposed change on its historic and architectural character;
- b. its importance to the Town of Westfield and the extent to which its historic or architectural interests would be adversely affected to the detriment of the public interest; and
- c. the extent to which there would be involvement of textures and materials that could be reproduced or could be reproduced only with great difficulty.

2. The use of any structure involved; provided, however, that this consideration shall not be construed to supersede or interfere in any way with the uses permitted within any zoning district in the Town of Westfield, as set forth by the Land Use Ordinance, or otherwise permitted under the provisions of N.J.S.A. 40:55D-1 et seq.

3. The extent to which the proposed action would adversely affect the public's view of a landmark or improvement within a historic district from a public street.

4. If the application deals with an improvement or other proposed action set forth in Section 6.A hereof within a historic district, the impact the proposed change would have on the character and ambience of the historic district and the improvement's visual compatibility with the spaces and structures to which it would be visually related in terms of the visual compatibility factors set forth in §8.H. hereof.

H. Additional matters considered. In regard to all applications for Commission approval, additional pertinent matters may be considered. These additional matters may include the following standards and objectives of the ordinance:

1. Every reasonable effort should be made to provide a compatible use for buildings that will require minimum alterations to the building and its environment. This objective shall not be construed to supersede or interfere in any way with the uses permitted within any zoning district in the Town of Westfield, as set forth by the Land Use Ordinance, or otherwise permitted under the provisions of N.J.S.A. 40:55D-1 et seq.

2. Rehabilitation work should not destroy the distinguishing qualities or character of the property and its environment. The removal or alteration of any historical material or architectural features should be held to a minimum consistent with the proposed use.

3. Deteriorated architectural features should be repaired rather than replaced wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of original features, substantiated by physical or pictorial evidence rather than on conjectural designs, or the availability of different architectural features from other buildings.

4. Distinctive stylistic features or examples of craftsmanship which characterize older buildings should be treated with sensitivity.

5. Many changes to buildings and environments are evidence of the history of the building and the neighborhood. These changes may have developed significance in their own right and this significance should be recognized.

6. All buildings should be recognized as products of their own time. Alterations which may be inconsistent with the actual character of the building should be avoided.

7. Contemporary designs for new buildings in old neighborhoods and additions to existing buildings or landscaping should not be discouraged if such design is compatible with the character of the neighborhood, building, or its environment.

8. Wherever possible, new additions, or alterations to buildings should be done in such a manner that if they were to be removed in the future, the essential form and integrity of the original building would be unimpaired.

9. The Historic Preservation Commission shall also be guided by the standards and criteria of the "Secretary of Interior Standards for Historic Preservation Projects" prepared by the Office of Archaeology and Historic Preservation, Heritage Conservation and Recreation Service, U.S. Department of Interior, Washington, D.C., as same may be amended from time to time.

I. Visual compatibility factors. In assessing the effect of any proposed change contained in an application before the Commission, the following "visual compatibility" factors shall be used to analyze the effect that the change would have on the landmark and those structures to which the landmark is visually related, or on the district in which the structure is located.

1. Height. The height of the proposed building shall be visually compatible with adjacent buildings.

2. Proportion of building's front facade. The relationship of the width of the building to the height of the front elevation shall be visually compatible with buildings and places to which it is visually related.

3. Proportion of openings within the facility. The relationship of the width of windows to the height of windows in a building shall be visually compatible with the buildings and places to which it is visually related.

4. Rhythm of solids to voids on facades fronting on public places. The relationship of solids to voids in facades of buildings shall be visually compatible with the buildings and places to which they are visually related.

5. Rhythm of spacing of buildings on streets. The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with the buildings and places to which it is visually related.

6. Rhythm of entrance and/or porch projection. The relationship of entrance and porch projections to the street shall be visually compatible with the buildings and places to which it is visually related.

7. Relationship of materials, texture, and color. The relationship of materials, texture, and color of the facade and roof of a building shall be visually compatible with the predominant materials used in the buildings to which it is visually related, especially those immediately adjacent.

8. Roof shapes. The roof shape of a building shall be visually compatible with buildings to which it is visually related.

9. Walls of continuity. Appurtenances of a building such as walls, open-type fencing, evergreen landscape masses, shall form cohesive walls of enclosure along a street, to the extent necessary to maintain visual compatibility of the building with the buildings and places to which it is visually related.

10. Scale of building. The size of a building, the mass of a building in relation to open spaces, the windows, door opening, porches and balconies shall be visually compatible with the buildings and places to which it is visually related.

11. Directional expression of front elevation. A building shall be visually compatible with buildings and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or nondirectional character.

## **§ 9. EFFECT OF CERTIFICATE OF APPROPRIATENESS APPROVAL, DENIAL, APPEAL.**

**A.** Approval. Approval by the Administrative Officer, the Planning Board, or the Zoning Board of Adjustment in accordance with the procedures set forth herein shall be deemed to be final approval pursuant to this Ordinance. Such approval shall neither cause nor eliminate any requirement for the filing of collateral application(s) or other proceeding(s), as may be required by other municipal ordinance(s) or other applicable law or regulations prior to undertaking the action requested concerning the historic landmark or district.

**B.** Expiration of approval. A certificate of appropriateness shall be valid for two (2) years from the date of its issue. Reasonable extensions thereof may be approved by the Commission in its discretion. If a separate permit or approval is also required for the action approved and is obtained prior to expiration of said two (2) year period, then the certificate of appropriateness shall continue to be valid through the life of such other permit or approval, inclusive of any extensions thereof.

**C.** Denial. Denial of a certificate of appropriateness by the Commission shall preclude the applicant from undertaking the activity for which approval was sought.

1. Denial of an application for development by the Planning Board or Zoning Board of Adjustment involving a designated historic landmark or district shall be deemed to preclude the applicant from undertaking the activity which would affect the landmark or historic district that was the subject of such application.

2. Denial of a permit by the Administrative Officer based on recommendation made by the Commission to such Officer shall be deemed to preclude the applicant from undertaking the activity for which approval was sought.

3. Denial by the Commission of a certificate of appropriateness application for landmark demolition, which denial includes recommendations for referral to the Planning Board for consideration of historic landmark reservation pursuant to N.J.S.A 40:55D-44, shall preclude issuance of a permit for the proposed demolition and shall require that the Administrative Officer forward the application to the Planning Board for such consideration.

D . Appeals. An appeal of the decision of the Administrative Officer concerning grant or denial of a permit application pursuant to this Ordinance, shall be made to the Zoning Board of Adjustment as provided under N.J.S.A. 40:55D-70. An appeal from the decision of the Planning Board or Zoning Board of Adjustment shall be made in the same manner as permitted and prescribed by law for appeals from any other decisions made by such Boards in accordance with applicable law.

## **§ 10 SPECIAL REQUIREMENTS FOR DEMOLITION.**

A. Intent and purposes. This section is adopted in furtherance of the policies set forth in this Ordinance to assure the preservation and enhancement of the Town's historical and cultural heritage by preserving, rehabilitating or restoring, whenever possible, buildings or structures which have distinctive architectural features or historical associations that contribute to the historic fabric of the Town.

B. Definitions. For the purposes of this section, the following words and phrases have the following meanings:

APPLICATION — An application to the Construction Official for a demolition permit as defined by this section.

COMMISSION — The Historic Preservation Commission of the Town of Westfield.

CONSTRUCTION OFFICIAL — The Construction Official of the Town of Westfield.

DEMOLITION PERMIT — Any permit issued by the Construction Official which is required by the State Building Code and which authorizes the total or partial demolition of a building or structure (excluding interior demolition) regardless of whether such permit is called a "demolition permit," "alteration permit," "building permit," etc.

HISTORIC PRESERVATION OFFICER (HPO) — The Secretary of the Commission or a member of the Commission appointed by the Commission.

PARTIAL DEMOLITION — The pulling down, destruction or removal of a substantial portion of the exterior of a building or structure or the removal of architectural elements which define or contribute to the historic character of the structure.

POTENTIALLY HISTORIC BUILDING OR STRUCTURE — Any building or structure which is, in whole or in part, at least 75 years old at the time an application is filed.

**TOTAL DEMOLITION** — The pulling down, razing or destruction of the entire portion of a building or structure which is above ground regardless of whether another building or structure is constructed within the original footprint of the destroyed building or structure.

C. Procedure.

1. No demolition permit shall be issued by the Construction Official for a building or structure which is identified within the Historic Preservation Plan Element and/or was originally constructed prior to 1924, except in conformity with the provisions of this section, the Historic Designation and Preservation Ordinance of the Town of Westfield, and any other applicable law, statute, ordinance or regulation.
2. Within five business days after the filing of an application for a demolition permit, the Construction Official shall deliver a copy of such application to the Historic Preservation Officer (HPO) for the purpose of determining whether or not the building, object, landmark, or structure may have historical, cultural, architectural, aesthetic or other significance, pursuant to the criteria for historic designation set forth in the Historic Preservation Ordinance.

D. Review of application by Historic Preservation Officer.

1. The HPO shall, within 20 business days after his or her receipt of an application for a demolition permit, make a determination as to whether or not the building or structure proposed for demolition may have historical, cultural, architectural, aesthetic or other significance in accordance with the criteria for historic designation set forth in Historic Preservation Ordinance of the Town of Westfield. The HPO shall notify the Construction Official of said determination in writing.
2. If the HPO determines that the building or structure has no historical, cultural, architectural, aesthetic, or other significance, a demolition permit may be issued immediately, provided the application complies with all other applicable laws, ordinances and regulations.
3. If the HPO determines that the building or structure may have historical, cultural, architectural, aesthetic, or other significance in accordance with the criteria for historic designation as set forth in the Historic Designation and Preservation Ordinance of the Town of Westfield, the HPO shall deliver within 10 days a copy of his or her written determination to the Commission, which shall review said determination at its next regularly scheduled meeting. If the Commission concurs with the HPO's determination, the Commission shall promptly seek designation of the landmark pursuant to the procedures set forth in section 5 of the Historic Designation and Preservation Ordinance of the Town of Westfield. If the Commission disagrees with the HPO's determination, the Commission shall within 20 days notify the Construction Official, who may issue a demolition permit immediately thereafter, provided the application complies with all other applicable laws, ordinances and regulations.

No demolition permit shall be issued by the Construction Official for a potentially historic building or structure until the requirements of this section and the Historical Preservation Ordinance, if applicable, have been satisfied.

## **§ 11 PENALTIES.**

- A. If any person shall undertake any activity upon a landmark or improvement within a historic district, requiring a certificate of appropriateness without first having obtained such certificate, such person shall be deemed to be in violation of this ordinance.
- B. Upon learning of the violation, the Zoning Officer shall personally serve upon the owner of the lot, wherein the violation has occurred or is occurring, a notice describing the violation in detail and giving the owner ten (10) days to abate the violation by restoring the landmark or improvement to its status quo ante. If the owner cannot be personally served within the municipality with said notice, a copy shall be posted upon the landmark or other improvement located in a historic district, and a copy shall be sent by both regular mail and certified mail, return receipt requested, to the owner at his, her, or its last known address as it appears on the municipal tax rolls. Copies of all such notices shall be sent to the Chairperson of the Historic Preservation Commission.
- C. In the event that the violation is not abated within ten (10) days of service or posting upon the landmark or other improvement located in a historic district, whichever is earlier, the Zoning Officer shall cause to be issued a Summons and Complaint, returnable in the municipal Court, charging violation of this ordinance. The Zoning Officer shall also notify the Chairperson of the Historic Preservation Commission of this action.
- D. If a violation involves ongoing unauthorized construction or demolition work, the Construction Official shall immediately issue a stop work order in accordance with the Uniform Construction Code, N.J.S.A. 52:27D-119 et seq.
- E. The penalty for violations shall be as follows:
  - 1. for each day, up to ten (10) days: not more than one thousand (\$1,000.00) per day;
  - 2. for each day, eleven (11) to (25) days: not more than one thousand and five hundred dollars (\$1,500.00) per day;
  - 3. for each day beyond twenty-five (25) days: not more than two thousand (\$2,000.00) per day; and
  - 4. in the case of a demolition without a permit therefor, a violation shall be punishable by a ten thousand dollar \$10,000.00 fine.

F. In the event that the Zoning Officer or Construction Official is made aware that demolition or removal of a landmark building or structure is about to occur without a certificate of appropriateness having been issued, s/he is hereby authorized to apply to the Superior Court of New Jersey for such injunctive relief as is necessary to prevent the destruction or removal of any landmark or other improvement located in a historic district. The Chairperson of the Historic Preservation Commission shall be informed immediately of this action.

## **§ 12. PREVENTIVE MAINTENANCE.**

Recognizing the need for preventive maintenance to insure the continued useful life of historic landmarks and improvements in historic districts, the Town Council hereby declares that code enforcement as relates to historic landmarks and improvements in historic districts is a high priority of the Town of Westfield.

A. Demolition By Neglect. Neither the owner of nor the person in charge of a historic landmark, or an improvement within a historic district, shall permit such structure, landmark or property to fall into a state of disrepair which may result in the deterioration of any exterior façade appurtenance or architectural façade feature so as to produce or tend to produce, in the judgment of the Commission, a detrimental effect upon the character of the historic landmark or historic district as a whole, or the life and character of the historic landmark, district, structure or property in question, including but not limited to:

1. The deterioration of exterior walls or other vertical supports;
2. The deterioration of roofs or other horizontal members;
3. The deterioration of exterior chimneys;
4. The deterioration of crumbling of exterior plasters or mortar;
5. The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors;
6. The peeling of paint, rotting, holes and other forms of decay;
7. The lack of maintenance of surrounding environment, e.g., fences, gates, sidewalks, street signs, accessory structures and landscaping; or
8. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

B. In the event that any historic landmark or improvement in a historic district deteriorates to the point that, in the best estimate of the Administrative Officer, the cost of correcting the conditions of the property or outstanding code violation equals more than twenty-five percent (25%) of the cost of replacing the entire improvement on which the violations occur, said officer shall serve personally or by certified mail, return receipt requested, a notice on the owner of the historic landmark listing the violations, the estimate for their abatement, and the replacement cost of the improvement, and stating that if the owner does not take all necessary remedial action within ninety (90) days or such extensions as said officer shall for good cause grant, the Town of Westfield may, at the expiration of such ninety (90) days, assess such fines as are permitted for violations of this Ordinance, or enter upon the property and abate such violations itself and cause the cost thereof to become a lien upon the property.

C. Upon receipt of such notice the owner may, within ten (10) days after such receipt, notify the Administrative Officer of his or her or its wish to have a hearing as to the allegations and estimates set forth in the notice. Such hearing shall be conducted by the Town Attorney and shall, so far as possible, be a formal adversary proceeding in which the Administrative Officer shall establish the matters alleged in the notice by a preponderance of the evidence. If the owner does

not request a hearing, the procedures set forth in the notice prescribed at § 12.A, above, shall apply. If a hearing is requested, the Town Attorney will within ten (10) days following the hearing serve on the owner an opinion in writing setting forth his or her conclusions and the reasons therefore. Such opinion shall deem to be first notice pursuant to § 12.A hereof.

D. Thereafter, if the owner does not comply, the Administrative Officer may enter onto the premises and, by use of municipal labor or outside contractors or both, perform such work as is necessary to abate all violations. All costs of such work shall be a lien upon the landmark property, payable with the next quarter's real property taxes and, if not paid then, bearing interest at the same rate as delinquent taxes.

### **§ 13 PERMIT REVIEW.**

It shall be the duty of all municipal officials reviewing all permit applications involving real property or improvements thereon to determine whether such application involves any activity which should also be the subject of an application for a certificate of appropriateness, and if it should, to inform both the Secretary of the Commission and the applicant.

### **§ 14 DESIGNATED HISTORIC LANDMARKS.**

The following properties, recommended by the Historic Preservation Commission and by the Planning Board to be designated as historic landmarks, are hereby designated as historic landmarks by virtue of this (or previously adopted) ordinance(s)

- A. The World War I monument located at the Plaza at the intersection of North Avenue and East Broad Street to include the vertical column, its base and the surrounding grounds extending to the existing street lines bordering the monument and statuary atop the column and any inscriptions or plaques thereon and being located on Lot 1, Block 2507 on the tax maps of the Town of Westfield.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- B. The Westfield Fire Headquarters #1 located at 401-405 North Avenue West, Westfield, New Jersey and designated as Lot 6, Block 3103 on the tax maps of the Town of Westfield.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- C. The private residence owned at the time of its designation by Earl Frawley and Patricia Frawley, h/w, located at 522 Elm Street, Westfield, New Jersey, known as Lot 4, Block 1102 on the tax maps, being the property formerly occupied as a childhood residence by the deceased cartoonist and humorist Charles Addams.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- D. Mindowaskin Park, known as Lot 12, Block 2403.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.



- Е. The private residence owned at the time of its designation by Hugh Platt located at 526 Wychwood Road, Westfield, New Jersey, known as Lot 1, Block 1410 on the tax maps, being also known as the Ball-Platt house, the Joseph Ball house and the Amzi Ball house originally built in 1741 and located in what is now Maplewood, New Jersey.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- Г. The private residence owned at the time of its designation by Allen R. Malcolm and Florence J. Malcolm located at 841 East Broad Street, Westfield, New Jersey known as Lot 33, Block 2101 on the tax maps, being also known as the Scudder Farm House originally built about 1790 and originally the residence of John Scudder, a member of one of the pioneer families of Westfield.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- Н. The private residence owned at the time of its designation by Charles L. Whedon and Viola M. Whedon located at 667 Fourth Avenue, Westfield, New Jersey, known as Lot 6, Block 3303 on the tax maps, being also known as the Matthias Sayre House originally built about 1760 and originally the residence of Matthias Sayre, a member of one of the pioneer families who fought in the Revolutionary War.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- И. The private residence owned at the time of its designation by Mr. and Mrs. Theodore Alley located at 500 Salter Place, Westfield, New Jersey, known as Lot 12.021, Block 3408 on the tax maps, being also known as the Charles Marsh House originally built around 1775 and originally the residence of Charles Marsh, a soldier in the Revolutionary War, it being the intention to exclude from such designation that portion of said lot seventy (70) feet in width abutting the easterly side lot line and extending from the front lot line to the rear lot line.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- Ж. The Miller-Cory House museum owned and operated at the time of its designation by the Westfield Historic Society, located at 14 Mountain Avenue, Westfield, New Jersey, known as Lot 40 in Block 1203 on the Town Tax Map, built circa 1740 by Samuel Miller, purchased by Joseph Cory in the 1780s and owned by the Cory family until 1921, an authentically restored 18<sup>th</sup> Century vernacular farmhouse.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- К. **J.** The Well House structure owned at the time of its designation by Charles & Patricia Lea Woodward located at 200 Woodland Avenue, Westfield, New Jersey, known as Lot 57 in Block 2003 on the Town Tax Map, together with property extending from the Well

House, ten (10) feet to the east, west, and north, and five (5) feet to the south, dating from the 1700's.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- L. The Burial Grounds of the Presbyterian Church in the West Fields of Elizabethtown, owned at the time of its designation by the Presbyterian Church in Westfield, located at 125 Mountain Avenue, Westfield, New Jersey, known as Lot 14 in Block 2405 on the Town Tax Map; its period of significance dating from 1724-1850, containing well-preserved, carved gravestones, some 386 with unusual epitaphs, graves of important persons, veterans of the Revolutionary War, War of 1812, and Civil War, and ordinary citizens, said landmark having been nominated for listing on State and National Registers of Historic Places.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- M. The Newell House located at 603 Clark Street, Westfield, New Jersey 07090, which is located on Block 808, Lot 26 on the Town Tax Map.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- N. M. Reeve House located at 314 Mountain Avenue, Westfield, New Jersey 07090, which is located on Block 2403, Lot 10 on the Town Tax Map.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- O. N. Triangle Park which is the triangular piece of land between Walnut St., Lawrence Ave., and Mountain Ave. in Westfield.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

## **§ 15. DESIGNATED HISTORIC DISTRICTS.**

The following properties, recommended by the Historic Preservation Commission and by the Planning Board to be designated as historic districts, are hereby designated as historic districts by virtue of this ordinance:

Kimball Avenue District. This district includes the properties described hereafter, all currently in single-family residential use:

<u>Address</u>	<u>Block Lot</u>	<u>Historic Description</u>
216 Kimball Avenue	2401 2	Embree House

222 Kimball Avenue	2401 3	
230 Kimball Avenue	2401 4	Robert A. Fairbairn House
231 Kimball Avenue	1101 16	Faircroft
237 Kimball Avenue	1101 15	Fairbairn-Pierson House
242 Kimball Avenue	2401 5	Dohrman-Ludwig House
243 Kimball Avenue	1101 14	Reverend Patton House
248 Kimball Avenue	2401 6	Faulkner House
249 Kimball Avenue	1101 13	Alpers-Cowperthwaite House
256 Kimball Avenue	2401 7	
257 Kimball Avenue	1101 12	Baker-Evans House
265 Kimball Avenue	1101 11	Alpers-Sanborn House
266 Kimball Avenue	2401 8	Platt House
322 Lawrence Avenue	2402 1	Putnam-Crammer House
404 Lawrence Avenue	1113 1	Douglas House

The Historic Preservation Commission shall be permitted to place appropriate plaques in said district indicating its historic status and individual property owners shall be permitted to include a plaque on their individual houses showing the date of construction, architectural style and/or historic description; provided, however, that such individual plaques not exceed one (1) square foot in area.

#### **§ 16 REPEALER.**

All ordinances or parts of ordinances in conflict or inconsistent with any part of the terms of this ordinance are hereby repealed to the extent that they are in such conflict or inconsistent, specifically the current appendix to the Land Use Ordinance dealing with Historic Designation and Preservation is repealed in its entirety.

#### **§ 17 SEVERABILITY.**

In the event that any section, part, or provision of this ordinance shall be held to be unconstitutional or invalid by any court, such holding shall not affect the validity of this ordinance as a whole, or any part thereof other than the part so held unconstitutional or invalid.

#### **§ 18 EFFECTIVE DATE.**

This ordinance shall take effect after passage and publication, as soon as and in the manner permitted by law.

**TOWN OF WESTFIELD  
GENERAL ORDINANCE NO. 2180**

**AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF  
WESTFIELD IN REGARD TO WALL-MOUNTED SIGNS FOR CORNER LOTS**

**BE IT ORDAINED** by the Town Council of the Town of Westfield in the County of Union as follows:

**SECTION I.** The Town Council of the Town of Westfield does hereby find that a recommendation contained within the Master Plan Reexamination Report prepared by H2M Associates and adopted by the Planning Board of the Town of Westfield by Resolution dated January 6, 2020 to review the Town sign ordinance is necessary. The Town Planner has identified an existing deficiency in the sign ordinance pertaining to wall-mounted signs for non-residential uses on the ground floor of corner lots which can be immediately rectified. For corner lots, existing ordinance language prohibits a wall mounted sign on a street facing wall which does not have a main public entrance, whereas the intent of the sign ordinance is to allow for a wall-mounted sign on each building wall which has a street frontage. The Town Council does hereby further find that the public interest of the Town of Westfield will be served by amending the Land Use Ordinance of the Town of Westfield in the manner set forth herein.

**SECTION II. Article 16, Section 16.04E1 titled “Wall-mounted signs.”**, is hereby amended to read as follows:

1. Main Entrance Signs. One (1) wall sign at the main public entrance, regulated as follows:
  - a. The sign shall be located on the wall or awning at the main public entrance.
  - b. The height of the sign shall not exceed the height of the ground floor, or seventeen (17) feet, whichever is less.
  - c. The horizontal dimension of the sign shall not exceed twenty (20) feet, or seventy-five percent (75%) of the width of the building frontage occupied by the use, whichever is less.
  - d. The vertical dimension of the sign shall not exceed two and one-half (2½) feet (30 inches).
- 1.1 Signs on corner lots. In the event the building is located on a corner lot and fronts on two (2) or more intersecting streets, additional wall mounted signs shall be permitted in addition to the sign(s) permitted in E.1 above, regulated as follows:
  - a. One (1) wall mounted sign shall be permitted on each additional wall which has a direct street frontage.

- b. The height of the sign shall not exceed the height of the ground floor, or seventeen (17) feet, whichever is less.
- c. The horizontal dimension of the sign shall not exceed twenty (20) feet, or seventy-five percent (75%) of the width of the building frontage occupied by the use, whichever is less.
- d. The vertical dimension of the sign shall not exceed two and one-half (2½) feet (30 inches).

**SECTION III.** All ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

**SECTION IV.** In the event that any section, provision, or part of provision of this ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so held unenforceable or invalid.

**SECTION V.** This ordinance shall take effect after passage and publication in the manner provided by law.

**TOWN OF WESTFIELD  
GENERAL ORDINANCE NO. 2181**

**AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF  
WESTFIELD IN REGARD TO THE DEFINITION OF ACCESSORY BUILDING OR  
STRUCTURE**

**BE IT ORDAINED** by the Town Council of the Town of Westfield in the County of Union as follows:

**SECTION I.** The Town Council of the Town of Westfield does hereby find that a recommendation contained within the Master Plan Reexamination Report prepared by H2M Associates and adopted by the Planning Board of the Town of Westfield by Resolution dated January 6, 2020 to remove the term “private summer house” from the definition of Accessory Building or Structure as it implies that accessory structures can contain a dwelling unit, is necessary. Pursuant to Article 13, Section 13.01J of the Town Land Use Ordinance no accessory buildings or structures may be used as a dwelling unit. The Town Council does hereby further find that the public interest of the Town of Westfield will be served by amending the Land Use Ordinance of the Town of Westfield in the manner set forth herein.

**SECTION II. Article 2, Section 2.04 titled “DEFINITIONS; A”,** is hereby amended by modifying the existing definition at subsection D for Accessory building or structure, to read as follows:

D.     **Accessory building or structure.** A building or structure occupied or devoted exclusively to an accessory use on the same lot with and subordinate to a principal building or structure. More particularly, but not by way of limitation, an accessory building or structure in a residential zone shall be construed to include a deck, detached private garage; private greenhouses; private sheds; gazebos; other private roofed structures; private swimming pool; private tennis court; private racquet ball, private platform tennis, private paddle ball, or private handball court.

**SECTION III.** All ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

**SECTION IV.** In the event that any section, provision, or part of provision of this ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so held unenforceable or invalid.

**SECTION V.** This ordinance shall take effect after passage and publication in the manner provided by law.

**TOWN OF WESTFIELD  
WESTFIELD, NEW JERSEY  
GENERAL ORDINANCE NO. 2182**

**AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF  
WESTFIELD IN REGARD TO DIMENSIONS OF GARAGED PARKING SPACES**

**BE IT ORDAINED** by the Town Council of the Town of Westfield in the County of Union as follows:

**SECTION I.** The Town Council of the Town of Westfield does hereby find that a recommendation contained within the Master Plan Reexamination Report prepared by H2M Associates and adopted by the Planning Board of the Town of Westfield by Resolution dated January 6, 2020 to require a set dimension for garaged parking spaces, is necessary. It is common that home renovation projects often result in an expansion of living space into existing attached garage space. The Town has historically allowed this encroachment provided that a car can still be accommodated in the garage, but a definitive, required dimension for an internal garage space is lacking in the ordinance. The Town Council does hereby further find that the public interest of the Town of Westfield will be served by amending the Land Use Ordinance of the Town of Westfield in the manner set forth herein, which adds the term “including garaged parking spaces” to existing language in Article 17, Section 17.04A of the Land Use Ordinance.

**SECTION II. Article 17, Section 17.04A titled “Minimum parking space dimensions”,** is hereby amended to read as follows:

**A. Minimum parking space dimensions.** Parking spaces, including garaged parking spaces, shall be designed to provide a rectangular area with the following minimum dimensions, which shall exclude any roadway, driveway or access aisle adjacent to the space. Parking spaces for persons with disabilities shall be in accordance with the New Jersey Uniform Construction Code or the Americans with Disabilities Act, as applicable. (RSIS)

<b>Type of Space</b>	<b>Space</b>	<b>Space</b>
	<b>Width</b>	<b>Depth</b>
No curb overhang	9'	20'
With 2' curb overhang (90° angle only)	9'	18'
Parallel to aisle	8'	23'

**SECTION III.** All ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

**SECTION IV.** In the event that any section, provision, or part of provision of this ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so held unenforceable or invalid.

**SECTION V.** This ordinance shall take effect after passage and publication in the manner provided by law.